

## CHAPTER 10: PROPOSED CONSERVATION STRATEGY

The proposed Conservation Strategy addresses the entire 132,000-acre Southern Subregion study area but focuses on the 92,000 acres located outside the Cleveland National Forest (CNF) that is referred to as the planning area. This Chapter describes the Subregional Habitat Reserve that would be created under the proposed Conservation Strategy and discusses briefly the other components of the Conservation Strategy covered in detail in other *Chapters* of this NCCP/MSAA/HCP or in the Implementation Agreement (IA).

Based on the detailed evaluations of the three Habitat Reserve Alternatives continuing to receive consideration in *Chapters 8 and 9*, the B-12 Habitat Reserve Alternative was selected as the “proposed” Alternative by the County of Orange and RMV. The B-12 Alternative also was designated as the “preferred” Alternative for purposes of CEQA and NEPA environmental documentation by the Wildlife Agencies and USACE to provide the basis for the proposed Conservation Strategy in the EIR/EIS (see *Part II*) (see *Figures 133-M and 167-M*). The USACE identified the B-12 Alternative as the preliminary Least Damaging Environmentally Preferred Alternative in its Draft EIS (Nov, 2004). The B-12 Alternative was selected because it provides for a large, biologically diverse and permanent subregional Habitat Reserve that would protect: **(1)** large blocks of natural vegetation communities that provide habitat for species of interest described in *Chapter 7* and *Chapter 13*; **(2)** *important and major populations* of species in *key locations* (see *Chapter 4* for definitions of these terms); **(3)** wildlife corridors and habitat linkages that connect the large habitat blocks and species populations to each other, the CNF and adjacent NCCP Subregions (see *Chapter 4* for detailed discussion); and **(4)** the underlying hydro-geomorphic processes that support the major vegetation communities providing habitat for the species that are proposed to receive regulatory coverage (see *Chapter 5* for detailed discussion). In addition, the B-12 Alternative achieves a high level of consistency with the Draft Southern Planning Guidelines and Draft Watershed Planning Principles discussed in *Chapters 4 and 5* and would not rely on public acquisition funding. *Section 10.3* describes the proposed Habitat Reserve.

*Chapter 10* describes the proposed Conservation Strategy by addressing the following key issues and topics:

- *Section 10.1* provides an overview of the Conservation Strategy, including a summary of the Covered Activities for each of the Participating Landowners/Permittees that will receive regulatory coverage under the NCCP/MSAA/HCP.
- *Section 10.2* provides a summary of the Subarea approach to planning and regulatory coverage that is being implemented within the planning area portion of the study area to achieve the subregional goals and objectives of the Conservation Strategy.

- *Section 10.3* describes the proposed Habitat Reserve component of the overall subregional Conservation Strategy.
- *Section 10.4* describes Supplemental Open Space (SOS) that, although not a part of the managed Habitat Reserve, serves to contribute to the subregional Conservation Strategy by providing additional open space containing a combination of vegetation communities supporting Covered Species, wildlife connectivity and refugia areas within the study area which enhance the overall function and value of the Habitat Reserve.
- *Section 10.5* discusses the role of the Urban/Wildlife Interface Zone that separates the Habitat Reserve and adjacent developed areas and other areas proposed for development, thus contributing important protection for the Habitat Reserve from urban light sources, noise, human/pet intrusions and potentially intrusive non-native vegetation.
- *Section 10.6* provides brief conclusions concerning the consistency of the Conservation Strategy with applicable state and federal laws/regulations.

## **SECTION 10.1 CONSERVATION STRATEGY OVERVIEW**

### **10.1.1 Subregional Conservation Planning Components**

The four programmatic components of the Conservation Strategy identified in *Chapters 1* and *2* are addressed in this Chapter, including:

- a 32,818-acre permanent Habitat Reserve consisting of 4,332 acres of open space committed to permanent protection prior to completion of the NCCP/MSAA/HCP, 11,950 acres of County regional and wilderness parklands and 16,536 acres of RMV lands that would be provided as phased dedications during the proposed buildout of RMV Covered Activities;
- a subregional Habitat Reserve Management and Monitoring Program (HRMP, see *Chapter 7*) to provide for the long-term protection and management of the biotic and abiotic resources contained within the Habitat Reserve;
- proposed regulatory coverage and provisions for Covered Species and CDFG Jurisdictional Areas consistent with the discussion in *Section 1.1* and *Chapter 13* that would be obtained by Participating Landowners/Permittees, consisting of the County, RMV and SMWD;
- an Implementation Agreement (IA, see *Part III*) that addresses funding for the Conservation Strategy, establishes the roles and responsibilities of program participants and binds all signatories to the IA terms and provisions.

The following discussions briefly review the proposed Conservation Strategy to highlight its important characteristics and the relationship between the “subregional” Conservation Strategy and planning and implementation measures that would be implemented at the Subarea level within the study area.

### **10.1.2 Creation of a Subregional Habitat Reserve Management Program (HRMP)**

*Chapter 7* described the subregional HRMP and its two major elements: (1) the Ongoing Management Program (OMP) on County parklands within the Habitat Reserve; and (2) the Adaptive Management Program (AMP) that would be implemented on the RMV and County parklands within the Habitat Reserve. The HRMP is designed to provide for long-term management of biological resources and hydro-geomorphic processes that provide habitat for the proposed Covered Species and, consistent with the NCCP Act and FESA, to maintain net habitat value over the long term within the Subregion. As explained in *Section 7.2* (Noon and Murphy comments), the HRMP may be more important to successful long-term conservation of species and their habitat than the decision concerning the size of the Habitat Reserve. *Chapter 7* and accompanying *Appendices E* through *K*, and *N* describe the HRMP, including the OMP and AMP components.

HRMP management/restoration programs and measures are designed to be implemented on a subregional basis to assure that: (1) *important and major populations* of Covered Species in *key locations* and other populations are conserved; (2) large blocks of natural lands containing the Conserved Vegetation Communities that provide the habitat necessary to support Covered Species and other sensitive species are managed, and where feasible and appropriate, enhanced and restored over the long term; (3) CDFG Jurisdictional Areas will be protected and managed over the long term; and (4) wildlife corridors and habitat linkages are identified, protected and managed to provide for permanent biological connectivity linking the large habitat blocks within the study area with each other and with adjacent NCCP Subregions and the CNF.

### **10.1.3 Provision for a Subregional Framework for Regulatory Coverage**

The regulatory coverage component is the third major component of the proposed NCCP/MSAA/HCP Conservation Strategy. *Chapter 13* contains a detailed discussion of the conservation, impacts and regulatory coverage that would be provided under this NCCP/MSAA/HCP. *Appendix E* provides the detailed Species Accounts and Conservation Analyses that support the recommended regulatory coverage. *Section 1.1* briefly summarizes the scope of regulatory coverage provided under the NCCP/MSAA/HCP. *Chapter 13* addresses regulatory coverage proposed for the 32 Covered Species and assesses the impacts of Covered Activities on the ten Conserved Vegetation Communities that provide the supporting habitat essential to designated Covered Species. *Chapter 13* also explains how impacts to CDFG

Jurisdictional Areas subject to state regulation under Section 1600 *et seq.* would receive regulatory coverage under this NCCP/MSAA/HCP.

The ability to provide regulatory coverage would reflect the extent to which creation of a subregional Habitat Reserve, HRMP and an enforceable Implementation Agreement would provide the necessary provisions to result in demonstrable protection and long-term management of species and their habitats. Regulatory coverage will be provided for: (1) NCCP Act Section 2835 taking of designated listed and unlisted plant and animal species; (2) impacts to CDFG Jurisdictional Areas; (3) HCP FESA Section 10 (a)(1)(B) incidental take permit for designated listed and unlisted fish and wildlife species; (4) jeopardy determinations for listed plant and animal species under FESA Section 7 in conjunction with federal permits, including the internal Section 7 for the HCP; and (5) critical habitat Section 7 adverse modification findings (listed fish and wildlife species), including the internal Section 7 for the HCP.

*Chapter 13* specifically addresses the following issues related to regulatory coverage under the proposed NCCP/MSAA/HCP:

- The hierarchical analysis of species that was applied to determine which species would be proposed to be Covered Species;
- Justification for state and federal regulatory coverage for each proposed Covered Species;
- The complete list of species proposed to receive regulatory coverage; and
- Identification of streambeds that are considered CDFG Jurisdictional Areas.

The proposed NCCP/MSAA/HCP would establish a 75-year term for the permits/authorizations and other provisions of the IA. The proposed term of the program reflects, on the one hand, the significant long-term conservation benefits related to creation of the Habitat Reserve and implementation of the AMP and, on the other hand, the fact that the Covered Activities being addressed by the NCCP/MSAA/HCP would involve development that would occur over several decades. Although the term of the permits/authorizations would be limited to 75 years under the terms of the IA, the Habitat Reserve and HRMP protections/obligations would be perpetual.

#### **10.1.4 Provide for an Enforceable Implementation Agreement (IA)**

The specific terms and provisions governing implementation of the Conservation Strategy are set forth in the Implementation Agreement (IA) for the NCCP/MSAA/HCP (*Part III* of the Draft NCCP/MSAA/HCP document). The IA identifies the responsibilities and obligations of all Signatory parties to the NCCP/MSAA/HCP and provides for funding adequate to implement the NCCP/MSAA/HCP consistent with the terms and provisions of the IA. The terms and

provisions of the IA would be binding on all Signatories. The terms and provisions of the IA address a broad range of implementation issues including, but not limited to, the following:

- Identification of participants in the NCCP/MSAA/HCP program;
- Description of the purposes and objectives of the NCCP/MSAA/HCP Conservation Strategy Mitigation Program;
- Descriptions of the term and regulatory scope of the NCCP/MSAA/HCP under both state law (NCCP Act of 1991, Section 1600 *et seq.* of the Fish and Game Code) and federal law (FESA sections 3, 4, 7, 9 and 10);
- Description of the components of the Conservation Strategy, including the Habitat Reserve, HRMP, regulatory coverage, and long-term funding/administration components;
- Description of the SOS elements that are part of the Habitat Reserve component of the Conservation Strategy;
- Terms and provisions for regulatory coverage for Covered Species and protection of Conserved Vegetation Communities;
- Attachment of the MSAAAs granted by CDFG to Participating Landowners/Permittees to the IA;
- Provisions for “mutual protections” available to participants, including addressing Changed Circumstances and Unforeseen Circumstances during NCCP/MSAA/HCP implementation;
- Provisions for amending the NCCP/MSAA/HCP and IA, and for adding lands to the Habitat Reserve or otherwise amending the Habitat Reserve boundaries;
- Provisions for Signatories to withdraw from the NCCP/MSAA/HCP and, in general, for terminating the NCCP/MSAA/HCP;
- Provisions establishing remedies and enforcement mechanisms for actions that are inconsistent with the express terms of the NCCP/MSAA/HCP and/or the IA; and
- Other legal and miscellaneous provisions relating to implementation of the NCCP/MSAA/HCP.

While the provisions of the NCCP/MSAA/HCP are intended to be incorporated by reference into the IA, in the event there is a conflict between the NCCP/MSAA/HCP and the IA, the language in the IA will be the controlling language.

### **10.1.5 Protection of Biotic and Abiotic Resources**

The Conservation Strategy proposed by this NCCP/MSAA/HCP addresses the long-term protection of both biotic and abiotic resources within the 132,000-acre Subregion (study area). The proposed Conservation Strategy also is designed to maintain biological connectivity within the Subregional study area and between the planning area and Camp Pendleton, the CNF and the Central Subarea component of the Central and Coastal Subregion NCCP/HCP. This section discusses the need to protect both biotic and abiotic resources as part of a subregional Conservation Strategy and provides a brief discussion concerning the relationship between biotic and abiotic resources.

#### ***a. Conservation of Biotic Resources: Wildlife Species and Vegetation Communities***

Beginning in *Chapter 4* (the Draft Southern Planning Guidelines) and *Chapter 5* (the Draft Watershed Planning Principles), this Draft NCCP/MSAA/HCP addresses the protection of Covered Species, Conserved Vegetation Communities and CDFG Jurisdictional Areas. The focus on biological resources on an ecosystem scale is becoming more typical for federal HCPs and is a prerequisite for state NCCPs. The Conservation Strategy focus on preservation, enhancement and management of biological resources is based on the Habitat Reserve described in *Section 10.3*.

Based on the information and *Figures* presented in *Section 10.3* and the Species Accounts and Conservation Analyses presented in *Chapter 13* and *Appendix E*, the proposed Conservation Strategy would propose regulatory coverage under FESA and the NCCP Act for 32 Covered Species, supported by the protection and management of ten Conserved Vegetation Communities that provide the habitat necessary for these species (see *Tables 13-1* and *13-15*, respectively). Proposed Covered Species include seven threatened/endangered listed species and 25 unlisted species.

#### ***b. Maintenance of Biological Connectivity***

*Chapters 4* and *5* of this NCCP/MSAA/HCP (the Draft Southern Planning Guidelines and Draft Watershed Planning Principles) also address the maintenance of biological connectivity within the study area and between this study area and adjacent natural areas remaining in the Central and Coastal NCCP Subregion, Camp Pendleton and the CNF. For instance, implementation of the RMV GPA/ZC would protect connectivity between the proposed Habitat Reserve and adjacent natural areas to the east and northeast of the study area, including large blocks of natural areas within Camp Pendleton to the southeast and within the CNF to the east and northeast. RMV GPA/ZC implementation also would contribute to maintaining connectivity between the

proposed Habitat Reserve and the Coastal Subarea component of the Central and Coastal Subregion on Habitat Reserve located southwest of the study area.

However, implementation of the RMV GPA/ZC would provide only limited contributions to protection/maintenance of biological connectivity to the large natural areas located north and northwest of the study area, areas that are adjacent to the Foothill-Trabuco Specific Plan Area (FTSPA). Maintenance of biological connectivity with the CNF to the north and to the Central Subarea component of the Central and Coastal NCCP Habitat Reserve will require actions within Subarea 2 (the FTSPA) that involve the County and selected Subarea 2 landowners. Under the proposed Conservation Strategy, existing connectivity is maintained between the proposed Habitat Reserve and Subarea 2 through O'Neill Regional Park (*Figure 115-M*) via Arroyo Trabuco. However, once inside the FTSPA, long-term connectivity will be reliant on protection of key linkages that traverse the FTSPA to the north to access the CNF, and other linkages providing westward access to connect with the Central Subarea Habitat Reserve component of the Central and Coastal Subregion NCCP/HCP.

To address the maintenance of biological connectivity to the Central Subarea and CNF, cooperative actions involving the County, landowners in Subarea 2 and the Wildlife Agencies recently were completed that will serve to protect important open space linkages on the privately owned Saddleback Meadows and Live Oak Plaza ownerships and a County-owned parcel located north of the Oso Reservoir and adjacent to the western boundary of O'Neill Regional Park. These cooperative actions have resulted in the permanent protection of key open space areas on the cited properties that will maintain biological connectivity between the Southern Subregion and the adjacent Central Subarea Habitat Reserve (see *Figure 6-M*). The County and Wildlife Agencies have determined that, cumulatively, these new open space areas would serve to maintain connectivity between the Central/Coastal and Southern Subregions and that this enhanced connectivity contributes significantly to the conservation of the species. *Section 10.2.2* provides additional discussion addressing the proposed approach for protecting connectivity within the FTSPA.

### ***c. Protection of Abiotic Resources and Natural Processes***

*Chapters 3 and 5*, which address Existing Conditions and the Draft Watershed Planning Principles, and the SAMP address: (1) protection and management of the functions and values of the aquatic and abiotic resources (*e.g.*, coarse sediments, groundwater and surface flows) and related natural processes at work within the subregion (*e.g.*, fire and climate regimes and hydrologic and geomorphic processes); (2) the varying effects of abiotic processes on the different terrains within the subregion; and (3) the manner in which these abiotic resources and processes need to be protected during implementation of the HRMP.

The Conservation Strategy was specifically designed to address the long-term protection and management of these abiotic resources and natural processes, including consideration and evaluation of:

- Locations of coarse sediment-generating geologic formations within the subregion that contribute positively to the habitat value of downstream aquatic resources (*e.g.*, by supplying the coarse sediments and cobble for habitat used by the arroyo toad, *Figure 19-M*);
- Presence of mass wasting processes (*e.g.*, landslides and earth and mudflows) that could impact downslope biotic resources or impact stream course alignments and need to be factored into the proposed AMP (*e.g.*, the effects of historic mudslides that altered the alignment of Gobernadora Creek, *Figure 19-M*);
- Fire history within and adjacent to the subregion and the role of fire in sustaining healthy coastal sage scrub and chaparral vegetation communities (*Figure 20-M*);
- Locations and extent of clayey soils that as suspended/colloidal debris could negatively impact downstream aquatic species by generating fine sediments (*Figures 21-M and 22-M*). Locations of alluvial (sandy) deposits that currently help to sustain local groundwater basins and aquifers and would provide permeable surfaces that would be capable of absorbing urban runoff and maintaining groundwater supplies in post-development scenarios (*Figures 21-M and 22-M*);
- Presence and size/volume of groundwater resources (*Figure 44-R*);
- Fluctuations in the amount and timing of surface runoff and volumes of surface waters in response to storm events in different terrains (*Figure 45-R*); and
- Climate characteristics, particularly the historic relationship between rain cycles and vegetation/species occurrence within the subregion, and potential impacts of climatic cycles on species' responses to the adaptive management measures incorporated into the proposed AMP element of the HRMP.

The considerations of natural processes are further reflected in the preservation of large, contiguous blocks of vegetation communities providing habitat for Covered Species, and avoidance of wetlands and riparian resources as part of the formulation of the proposed Habitat Reserve. In addition, the decision to prepare and evaluate project alternatives for the SAMP for the San Juan Creek and San Mateo Creek watersheds, as well as a Section 404 permit for the Prima Deshecha portion of the San Clemente Hydrologic Unit, concurrent with Habitat Reserve Alternatives for the NCCP/MSAA/HCP, demonstrates a commitment on the part of NCCP/MSAA/HCP participants to protect and maintain natural processes (*i.e.*, hydrologic and erosional processes) through the design of the proposed Habitat Reserve. Finally, the evaluation



of fire management issues in the Wildland Fire Management Plan (*Appendix N* and *Section 7.14*) and future water quality considerations that are discussed in *Chapter 7, Section 7.17* are designed to enhance the ability of future Habitat Reserve owners/managers to effectively implement the proposed NCCP/MSAA/HCP Conservation Strategy.

#### **10.1.6 Participating Landowners/Permittees**

The proposed subregional Conservation Strategy would involve the participation of private, public and quasi-public Participating Landowners, as well as Local Jurisdictions that already have designated permanent open space capable of contributing significant natural values that would supplement the function and value of the proposed Habitat Reserve (*e.g.*, species populations and/or wildlife corridors or habitat linkages). Participating Landowners and Local Jurisdictions include the following (also refer to the Subareas identified in *Figure 9-R*):

Participating Landowners/Permittees seeking regulatory coverage for impacts related to Covered Activities are the:

- Santa Margarita Water District for new facilities and maintenance/operation thereof in Subarea 1 and operations/maintenance of existing facilities in Subarea 3 and Subarea 4;
- County of Orange for the Prima Deshecha Landfill facility in Subarea 1 and the Avenida La Pata improvement/extension in Subarea 1 and Subarea 4; and
- Rancho Mission Viejo for its activities in Subarea 1.

The Participating Local Jurisdiction is the County of Orange acting in its role as Lead Agency for Subareas 1, 2 and 3.

Potential future Participating Local Jurisdictions are:

- City of Rancho Santa Margarita (Subarea 4A)
- City of Mission Viejo (Subarea 4B)
- City of San Juan Capistrano (Subarea 4C), and
- City of San Clemente (Subarea 4D)

The TCA is not a Participating Landowner. However, the TCA previously contributed funding and agreed to have its Upper Chiquita Conservation Easement included in the RMV Land Conservancy (RMVLC) portion of the Habitat Reserve in accordance with the terms of its conservation easement.

Under the proposed NCCP/MSAA/HCP, the present involvement on the part of Participating Landowners and Local Jurisdiction varies depending on whether or not regulatory coverage is being sought and whether or not open space lands would be committed to the Habitat Reserve. Participants may be categorized as follows:

- Landowners (both public and private) that perform Covered Activities, some of which would require regulatory coverage;
- Landowners (including the County of Orange) that are already managing natural open space areas and operating/maintaining regional and wilderness parklands (deemed to be Compatible Uses that are not anticipated to involve Take) that would be included in the Habitat Reserve but would not involve Covered Activities requiring regulatory coverage; and
- Potential future Participating Local Jurisdictions containing designated open space providing natural values (*e.g.*, lands subject to conservation or open space easements and lands identified as open space under General Plan designations) but are presently not proposing activities requiring regulatory coverage and are not proposing to commit such open space to the Habitat Reserve.

Each of these categories is discussed below.

***a. Participating Landowners/Permittees that are Requesting Regulatory Coverage as Part of this Draft NCCP/MSAA/HCP***

The following Participating Landowners (also referred to as Permittees) would request regulatory coverage under the NCCP/MSAA/HCP for Covered Activities described in *Section 10.1.7*. Because regulatory coverage would likely be necessary for Covered Activities within these ownerships, the Habitat Reserve lands owned by these Participating Landowners in Subarea 1 would be managed in accordance with the AMP element of the HRMP as described in *Chapter 7*.

**1. County of Orange Integrated Waste Management Department (IWMD) and Road Department (Roads)**

The County owns lands within the OMP portion of the Habitat Reserve. It is requesting regulatory coverage within Subarea 1 for Covered Activities, including construction, operation and mitigation related to its 1,530-acre Prima Deshecha Landfill (IWMD) and improvements and extension of Avenida La Pata from Ortega Highway through the Landfill to link to the existing Avenida La Pata. Covered Activities for both the Prima Deshecha Landfill and Avenida La Pata in both Subareas 1 and 4 are discussed in *Section 10.1.7* and *Appendix M*.

Covered Activities for the landfill operations include onsite landfill operations and restoration/enhancement that would potentially impact two state-and/or federally-listed species: least Bell's vireo and coastal California gnatcatcher. As noted in *Section 10.1.7*, Covered Activities also would involve offsite habitat enhancement/restoration activities (e.g., invasive species controls) that could affect vegetation communities potentially supporting Covered Species in addition to the aforementioned birds. Covered Activities related to the Avenida La Pata improvements and extension (*Figure 165-M*) also could involve impacts to the federally-listed least Bell's vireo and a federal- and state-listed plant, thread-leaved brodiaea (*Brodiaea filifolia*).

## 2. County of Orange Department of Harbors, Beaches and Parks

In addition to OMP activities which are treated as Compatible Uses under the NCCP/MSAA/HCP ( see *Section 10.1.6.b* below), the County will be implementing adaptive management measures on portions of its wilderness and regional parklands consistent with activities described in *Chapter 7* and *Chapter 12*. These adaptive management measures are addressed as Covered Activities and will receive regulatory coverage under the NCCP/MSAA/HCP (see also *Chapter 13*).

## 3. Rancho Mission Viejo (RMV)

The RMV property includes about 22,815 acres within the study area (*Figure 3-M*). As discussed in *Section 10.1.7* and *Appendix S*, Covered Activities would include residential, commercial/industrial, recreation, RMV ranching facilities and operations, roads and other supporting infrastructure uses, ranching and related activities, with an impact totaling up to 8,145 acres within Subarea 1 (see *Table 10-2*). As explained in *Chapter 6* and *Chapter 13*, the 8,145-acre impact is overstated by about 1,632 acres in PAs 4, 6, 7 and 8 due to the need to allow additional time for resolution of specific development boundaries in these areas. Actual RMV Covered Activities would be limited to:

- 6,277 acres within Planning Areas in Subarea 1 (6,102 acres of residential/commercial development, existing and new orchard, and 175 acres for a reservoir in Planning Area 4);
- 361 acres of impacts resulting from construction of supporting infrastructure facilities, including 327 acres of impacts within the Habitat Reserve and 34 acres within SOS located outside Subarea 1; and
- up to 180 acres of temporary impacts to Conserved Vegetation Communities (see *Table 13-18*).

These overall impacts related to Covered Activities could potentially impact habitat of as many as seven state or federal listed species, including: San Diego and Riverside fairy shrimp, arroyo toad, least Bell's vireo, southwestern willow flycatcher, coastal California gnatcatcher, and thread-leaved brodiaea (see discussion in *Chapter 13* and the Species Accounts and Conservation Analyses in *Appendix E*). With regard to the federally-listed southern steelhead, the Critical Habitat Designation Final Rule for the San Juan ESU classifies the RMV property and areas of the San Juan Creek Watershed upstream as unoccupied habitat. Consequently, no regulatory coverage is proposed for southern steelhead by the NCCP/MSAA/HCP. RMV is requesting that the HRMP adaptive management and monitoring measures and the WQMP (a "coordinated plan") be treated as Covered Activities (see *Chapter 7* and *Appendix K*) on its property and on the conservation easements and conservancies previously created by RMV.

RMV also is requesting that the Ortega Rock mining operation be included as a Covered Activity because its current permitted and future operations may involve impacts to habitat suitable for Covered Species identified in this NCCP/MSAA/HCP. The Ortega Rock activities would result in a request for regulatory coverage to address impacts to about 136 acres of disturbed and natural vegetation communities, including impacts to approximately 64 acres of Conserved Vegetation Communities (including 63 acres of coastal sage scrub and 1 acre of mule fat scrub), and additional coverage under the MSAA for impacts to streambeds subject to state jurisdiction. A detailed description of the Ortega Rock impacts, avoidance, minimization and mitigation is provided in *Chapter 13* and *Appendix S*.

#### 4. Santa Margarita Water District (SMWD)

The SMWD provides water and wastewater treatment services to landowners and communities within the subregion. Covered Activities include those actions described in *Section 10.1.7*, *Chapter 13* and *Appendix T* by the District resulting in permanent impacts of about 40 acres in Conserved Vegetation Communities and temporary impacts totaling 94 acres of lands within the Habitat Reserve and SOS areas in the Southern Subregion that have the potential to impact the coastal California gnatcatcher and other Covered Species and/or require SAAs (see *Figure 160-M*).

##### ***b. County Department of Harbors, Beaches and Parks (HBP) Compatible Uses Related to Operation, Maintenance Management of Natural Open Space in Regional and Wilderness Parks Proposed to be Committed to the Habitat Reserve***

The County Department of Harbors, Beaches and Parks (County HBP) currently operates, maintains and manages about 11,950 acres that contain significant blocks of natural open space within the Subarea 1 portion of the Subregion that support species designated as Covered Species

under the NCCP/MSAA/HCP. In conjunction with enrollment of the County regional/wilderness parklands in the Habitat Reserve, the County will record a notice with the office of the County recorder in the chain of title for each Habitat Reserve land parcel. The notice will include (see the IA, Section 8.4):

- the date that the parties entered into the Implementation Agreement;
- a summary statement of the purpose of the NCCP/MSAA/HCP;
- a statement that the NCCP/MSAA/HCP and the Implementation Agreement have provisions which will affect or restrict the use of the subject parcel; and
- an announcement that the full text of these documents are available for public inspection at the County of Orange offices.

These County HBP activities are not Covered Activities, are not anticipated to result in Take and are identified as Compatible Uses under the NCCP/MSAA/HCP. However, as noted above and in *Chapter 7*, it is understood that regulatory coverage would be provided for the Covered Activities consisting of the adaptive management program measures implemented in accordance with the Coto de Caza in lieu impact fee program and the monitoring and management measures conducted pursuant to the AMP. Under the AMP, HBP would be willing to allow implementation of adaptive management measures over and above their current management practices, such as habitat restoration/enhancement and invasive species controls, if such measures are recommended by the Reserve Manager after consultation with the Science Panel and: **(1)** funding is provided by other sources; **(2)** the proposed management measures are consistent with existing uses and HBP management goals and priorities; and **(3)** such adaptive management measures are consistent with the approved NCCP/MSAA/HCP and IA.

Current HBP management practices and funding are described by the management plans for O'Neill Regional Park and Caspers Wilderness Park and additional funding discussions contained in *Appendix F*. Based on the noted management plans and onsite observations conducted by HBP personnel over the years, the following are the AMP adaptive management and monitoring needs for County parklands:

- Monitoring of recreational impacts, including public use of trails, campgrounds and associated facilities;
- Monitoring of the urban/wildland interface, including submittal of letters of comment on proposed future uses adjacent to the Habitat Reserve;
- Monitoring of invasives, including invasive riparian and upland species such as arundo and artichoke thistle;

- Abatement of invasives through multiple methods including cut and spray, spray, hand pulling or mechanical means;
- Fire management through control of campfires and cooperation with OCFA during wildfire events;
- Enforcement/resource protection, including monitoring measures noted above and restriction of recreational access as necessary;
- Habitat enhancement/restoration; and
- Other miscellaneous resource management activities.

The above AMP monitoring and adaptive management needs are currently being met within the three County parklands. Current costs for these management and monitoring activities are about \$450,000 annually. The County is committed to continuing funding for the cited AMP measures out of their annual operating budget consistent with the terms of this NCCP/MSAA/HCP and IA.

In carrying out OMP and AMP (as cited above) activities on County parklands within the Habitat Reserve, the County will consider recommendations from the Science Panel and Wildlife Agencies regarding priority OMP/AMP activities and will adjust funding to respond to these recommendations within the scope of the available budget and in relation to the County's overall obligations regarding County parklands. Any additional funds available for OMP/AMP activities generated by the Subarea 3 fees generated by future development on the remaining residential lots in Coto de Caza, or from other sources outside HBP, shall augment HBP funding and may not supplant such HBP funding.

At some time in the future HBP may determine that additional recreational facilities would be needed within the parks and that these new facilities would require future regulatory coverage. In that future event, HBP would propose amendments to the NCCP/MSAA/HCP, including potential implementation of adaptive management measures in accordance with the provisions of the HRMP set forth in *Chapter 7* of the NCCP/MSAA/HCP.

***c. Potential Participating Local Jurisdictions with Designated Open Space that Would Not Be Managed as Part of the Habitat Reserve***

Within portions of Subareas 2 and 3 in the County, and within each of the four cities in Subarea 4, there are two categories of lands designated as open space:

- Open space subject to conservation easements permanently set aside as a result of conditions relating to previous local, state and/or federal regulatory approvals; and

- Open space within the County FTSPA (Subarea 2) and cities (Subarea 4) designated by a specific plan or local General Plans, where there are no existing guarantees that such areas will be permanently protected (*i.e.*, no assurance that future General Plan or Zoning amendments would not be sought to change the existing open space designation).

The first category of open space comprises areas identified in *Chapter 6* and *Appendix L* that are designated as permanent open space as a result of prior regulatory approvals (*e.g.*, prior Section 4(d) permits, Section 7 consultations, etc.). These areas contribute to wildlife corridors/linkages, Conserved Vegetation Communities supporting Covered Species and would continue to be protected but not committed to the Habitat Reserve. Thus, they would not be actively managed under the proposed NCCP/MSAA/HCP (*Figure 162-M*).

Some of the previously protected open space is subject to 4(d) permit management requirements (*e.g.*, Coto de Caza, Talega and Forster) and others are subject to Section 7 consultation management requirements (*e.g.*, Saddleback Meadows and Whispering Hills). Any ongoing management obligations are defined in the applicable regulatory approvals and are not obligations of local governments. The value of the individual open space areas as wildlife linkages and habitat areas differ; however, even without provisions for management consistent with the HRMP set forth in *Chapter 7*, these open space areas contribute important wildlife movement and habitat functions that would enhance long-term biological functions and values as part of a subregional Conservation Strategy.

The second category of open space within the cities (*i.e.*, general plan designated open space) also would enhance the function of the proposed Habitat Reserve. However, participation in the NCCP/MSAA/HCP by the cities is not proposed at this time and such participation would not be essential to implementation of an effective subregional NCCP/MSAA/HCP that would support regulatory coverage for the Covered Species and their habitat and wetlands/streams. No management obligations with respect to these lands are imposed by the NCCP/MSAA/HCP.

### **10.1.7 Summary of Covered Activities under the Proposed Conservation Strategy**

#### ***a. County of Orange***

1. Integrated Waste Management Department (IWMD) Prima Deshecha Landfill (*Figure 163-M* and *Appendix M*)

The 1,530-acre Prima Deshecha Landfill site is located in south Orange County (*Figure 163-M*). The County-owned landfill site includes acreage within the jurisdictions of the cities of San Juan Capistrano (570 acres), San Clemente (133 acres) and unincorporated Orange County (827

acres). The Prima Deshecha 2001 General Development Plan and its 2002 Amendment (referred to collectively as the 2001 GDP) is the planning document that will guide coordinated long-term implementation of both interim and ultimate site development uses.

The Prima Deshecha 2001 GDP provides for the effective management of multiple uses on the site, including solid waste disposal, various proposed future regional park and recreational uses, and implementation of a key arterial highway extension (Avenida La Pata) included in the Master Plan of Arterial Highway (MPAH), Orange County Circulation Plan (OCCP), and Circulation Elements of the cities of San Juan Capistrano and San Clemente. The 2001 GDP divides the total 1,530-acre site into five zones for planning purposes as shown on *Figure 163-M* and discussed in detail in *Appendix M*.

Generally, the landfill is designated in one of two categories under this NCCP/MSAA/HCP: **(1)** the Development Zone; or **(2)** Supplemental Open Space (*Figure 163-M*). Covered Activities applicable to each of these landfill designations are described below:

(a) Covered Activities within the Landfill Development Zone

Within the 999.4-acre Development Zone, landfill operation and construction activities designated as Covered Activities would occur primarily within Zones 1, 4 and 5 under the Prima Deshecha GDP (see *Table 10-1 – Prima Deshecha Landfill GDP Covered Activities within the Development Zone*, *Table 13-17* and *Appendix M*).

**TABLE 10-1  
PRIMA DESHECHA LANDFILL GDP COVERED  
ACTIVITIES WITHIN THE DEVELOPMENT ZONE**

<b>LANDFILL ACTIVITIES<sup>1,2</sup></b>
Landfill liner construction and maintenance.
Waste unloading, spreading, compacting
Landfill Cover Construction & Maintenance: routine construction, inspection and repair, soil testing, soil importation and stockpile, surveying, regrading, compaction, slope repair, weed abatement, revegetation and settlement or crack repair, seeding, straw mat, erosion control blankets, geotechnical investigations, trenching, boreholing and all routine maintenance and repair of facilities that does not result in permanent loss of existing natural vegetation. Daily, intermediate and final cover placement
Borrow site grading, earth moving, clearing and grubbing, access for grading efforts
Refuse excavation and replacement
Cleanup and remediation for unacceptable materials
Leachate and groundwater recovery, disposal and treatment system construction and Installation
Landfill Water Monitoring System Construction & Maintenance: ground water monitoring well installation and abandonment, ground water and storm water monitoring, well redevelopment, dedicated pump installation
Water supply system construction and maintenance
Landfill Landscape and Irrigation System (pipeline, pump, valves, sprinklers) Construction & Maintenance: routine construction, inspection and maintenance, weed control, fertilization, rodent control, reseeding and mulching, system replacement and repair



**TABLE 10-1**  
**PRIMA DESHECHA LANDFILL GDP COVERED**  
**ACTIVITIES WITHIN THE DEVELOPMENT ZONE**

Landfill Liquid Management System (pumps, sewer, sumps, storage tanks, pipes, power supply, electrical controls, ground water extraction wells, leachate recovery, water, leachate or landfill gas condensate treatment unit) Construction & Maintenance: routine construction, inspection and maintenance, liquids disposal, sampling and monitoring
Landfill Drainage Facilities (bench drains, inlet structures, down drains, deck drainage, concrete channels, pipes, ditches, desilting basin, etc.) Construction & Maintenance: routine construction, inspection and repair, regarding, debris or sediment removal, erosion control, grouting, structures repair and construction, weed abatement.
Landfill Gas Recovery System (gas extraction wells, headers, laterals, valves, well heads, burners, flares, gas to energy plant, gas condensate, power supply) Construction & Maintenance: routine construction, inspection and maintenance, gas monitoring, gas well installation and repair, pipeline repair, underground fire control, well head repair, and adjustment, condensate injection into flares.
Landfill Gas Control System (perimeter probes, perimeter wells, piping, pumps, power supply) Construction & Maintenance: routine construction, inspection and maintenance, gas monitoring, surface emissions monitoring, pipeline repair, probe and well installation, installation of horizontal and vertical collectors, construction of headers, weather station maintenance and repair.
<b>GAS RECOVERY FACILITY INSTALLATION, OPERATIONS AND MAINTENANCE</b>
Dust control, fire control, vector and bird control, litter control
Remedial grading and repair for landslides and other natural occurrences
Landfill Utilities and Communications Facilities; installation, routine maintenance, repair, relocation or replacement Landfill Utilities and Communications Facilities; installation, routine maintenance, repair, relocation or replacement
Landfill access road, construction and maintenance.
Landfill Survey Monument Construction and Maintenance: routine construction, inspection and maintenance, survey, monument replacement or repair
Landfill Soil Excavation for cover repair, drainage and erosion control, landfill gas emission control, biological surveys, Archeological and paleontological surveys and recovery.
Landfill Perimeter Fence Construction and Maintenance: routine construction, inspection and maintenance, replacement and repair.
Other landfill construction and maintenance activities required by law and regulation, including but not limited to: aerial or ground survey, landslide remediation, drilling, moisture probe installation, recycling, utility, fee booth, scales, field office and heavy equipment maintenance facility, and site security
Future uses including: mitigation, open space, regional park, etc.

<sup>1</sup> Attempts will be made to undertake activities that impact vegetation outside the breeding/nesting season, including activities mandated by regulation or law affecting public health, safety, and welfare.

<sup>2</sup> Activities are subject to change where practicable based upon regulation changes generated by the various solid waste regulatory agencies.

By approximately the year 2019, Zone 1 is projected to be completely filled based on current assumptions. After closure activities have been completed, satisfactory access established, and sufficient settlement has occurred, the ultimate recreational uses identified in a needs analysis could be implemented. A potential future stockpile area has been identified to the west of the Zone 1 refuse disposal area as shown on *Figure 163-M*. Zone 4 is planned for future refuse disposal following the completion of landfill activities in Zone 1 in the year 2019. Zone 5 encompasses the area of disturbance for construction of the extension of Avenida La Pata. The assumption in this project description is that Avenida La Pata would be constructed prior to commencement of landfill operations in Zone 4.

Development Zone activities would involve 671 acres of permanent impacts to Conserved Vegetation Communities supporting Covered Species within the 999-acre development zone (see Figure 164-M, Table 13-17 and Chapter 13 for a full discussion).

(b) Covered Activities within Supplemental Open Space (*Figure 163-M and Table 13-17*)

The 530.7 acres within Prima Deshecha Landfill designated as Supplemental Open Space (SOS) represent those portions of the landfill site that the approved General Development Plan (GDP) does not anticipate as being needed for landfill disposal operations. These areas are not likely to be affected by existing and future landfill operations and are intended to be preserved in a natural condition to the maximum extent possible. However, since this refuse disposal facility is expected to be in operation until 2067, and in landfill post-closure maintenance beyond 2067, it cannot be known with absolute certainty whether some of the areas designated as SOS may be needed for on-going maintenance and post-closure maintenance after landfill closure. In addition, the designated SOS will accommodate habitat restoration from landfill impacts as well as other regional restoration opportunities. Therefore, the following activities would be permitted within the areas designated as SOS within the boundaries of the Prima Deshecha Landfill:

- Install, operate, maintain, repair and/or replace roads, public utilities lines and associated improvements, and flood control, drainage and ancillary and appurtenant facilities;
- Install, operate, maintain, repair and/or replace trails, parks and related improvements and/or engage in any other recreation uses;
- Permit livestock grazing as a management tool for the control of non-native species for the benefit of Covered Species;
- Continue the use of the SOS area for any purposes provided for in any existing easements of record;
- Conduct prescribed fires allowed by the local fire authority for health and safety reason and to allow access to the SOS in order to fight or mitigate fires;
- Conduct scientific research;
- Perform remedial grading with vegetated slopes utilizing native species;
- Conduct mitigation actions as defined in the Covenant and Declaration of Restrictions recorded on the property (see Section 3.2.10 – Mitigation) with respect to the implementation of the October 2002 Amended GDP;

- Conduct any and all activities and operations as may be necessary to comply with applicable laws and regulatory compliance requirements in connection with the landfill's operation, closure and post-closure activities;
- Conduct biological mitigation, conservation or other similar operations and related activities pursuant to any approved NCCP/MSAA/HCP and other similar plan of conservation, and/or resource agency permit requirements; and
- Perform site grading and/or soil filling (to maximize capacity) in support of landfill operations.

Future disturbances within SOS areas could involve the temporary removal of coastal sage scrub, southern needlegrass grassland or riparian habitat resources created as part of the Phase B Landslide Remediation Project or for the Pre-Mitigation Plan or Regional Environmental Enhancement Opportunities Plan discussed in *Subsection d*. In the event that such vegetation impacts occur, it will be restored through the application of the appropriate hydroseed mix over the disturbed areas during the next growing season following the completion of the Covered Activity. The hydroseed application and subsequent three-year maintenance program (removal of non-native invasive plant species) shall be in accordance with the Pre-Mitigation Plan (*Appendix M*), shall meet the applicable habitat 3-year performance criteria set forth in *Appendix H* and constitute full compliance with the provisions of the NCCP/MSAA/HCP. No further mitigation obligations will be assessed against the Orange County IWMD by the Wildlife Agencies.

(c) Minimization and Mitigation Measures Associated with Landfill Operation and Construction

Impacts associated with IWMD Covered Activities would total 999 acres (including impacts to non-natural lands and non-Conserved Vegetation Communities) within the Development Zone and undetermined temporary impacts that would be pre-mitigated on a 1:1 basis within SOS areas. Minimization and mitigation measures associated with Covered Activities within both the Development Zone and SOS are discussed in *Chapter 13 (Conservation and Regulatory Coverage)* and *Appendix M*.

(d) Regional Environmental Enhancement Opportunities Plan

The designated SOS and other portions of the Prima Deshecha Landfill within completed areas of phased Landfill development provide opportunities for habitat restoration and enhancement that are in excess of the mitigation needs for permanent and temporary impacts to Covered Species and Conserved Vegetation Communities generated by landfill activities. The County is proposing to implement a Regional Environmental Enhancement Opportunities Plan ("REEOP")

to identify restoration, enhancement and creation opportunities on the Prima Deshecha Landfill property that can be made available to satisfy potential mitigation requirements for other future, and as yet unspecified, County projects in the study area. Any mitigation or restoration enhancement project proposed through the REEOP for designated Prima Deshecha SOS shall require approval of the Wildlife Agencies.

2. Road Department Construction of Avenida La Pata (Figure 165-M, Table 13-17 and Appendix M)

The referenced road project includes the improvement of an approximately four-mile long segment of Avenida La Pata. This proposed improvement will close an existing transportation facility gap on the Orange County Master Plan of Arterial Highways (MPAH) and the County of Orange Circulation Plan. The alignment of Avenida La Pata has been shown on the MPAH in various configurations since 1963 and in the current alignment since about 1981. The Orange County Circulation Plan classifies Avenida La Pata as a Primary Arterial Highway between Ortega Highway and Calle Saluda.

Avenida La Pata will be improved in Subarea 1 between Ortega Highway and Prima Deshecha Landfill from a two-lane plus southbound climbing lane arterial to four lanes plus a southbound climbing lane. A new four-lane extension of Avenida La Pata will be constructed through the landfill to the existing intersection of Avenida La Pata and Calle Saluda in Subarea 4, in the City of San Clemente. The proposed alignment of Avenida La Pata will follow the existing Avenida La Pata between Ortega Highway and Prima Deshecha Landfill. South of the Landfill the alignment parallels the utility tower easement on the east until just north of the Talega residential development, where it crosses existing utility easements diagonally from east to west to join the existing intersection of Avenida La Pata and Calle Saluda.

The proposed Avenida La Pata alignment will require right-of-way and slope easements from RMV and from the Whispering Hills development north of the Landfill. The total impacts associated with Avenida La Pata total 311 acres of permanent impacts to proposed Conserved Vegetation Communities (overstated pending completion of the final construction plans). Within the Landfill, additional right-of-way and slope easements will be required from the County IWMD. The proposed Avenida La Pata alignment will likely include the relocation of wooden pole structures used for electrical transmission and one steel electrical transmission tower due to stabilization and grading constraints. Furthermore, the proposed Avenida La Pata alignment is proposed to excavate over 100 feet of municipal solid waste (Waste Management Unit No. 2) at the northern entrance to the Landfill. The project will need to overexcavate, remove the landfill waste, and compact the bottom elevations in place through Deep Dynamic Compaction.

### 3. County HBP Adaptive Management Measures in County Regional and Wilderness Parks

Adaptive Management measures discussed in *Chapter 7* and in *Section 10.1.5.b*, which are part of the AMP component of the HRMP, also are Covered Activities that would receive regulatory coverage under the NCCP/MSAA/HCP.

#### ***b. Rancho Mission Viejo (Figure 166-M, Table 10-2 and Appendix S)***

RMV Covered Activities are located with Planning Areas (PAs) in accordance with the B-12 Alternative that has been selected as the proposed Alternative and is the subject of the 2005 Settlement Agreement signed by RMV, the County and five environmental organizations (*i.e.*, the Sierra Club, NRDC, Sea and Sage Audubon, Laguna Greenbelt, Inc. and Endangered Habitats League). Covered Activities described in *Table 10-2* and *Appendix S* include: **(1)** development within Planning Areas (PA) 1 through 5 and 8; **(2)** maintenance of infrastructure, improvements to existing roads and infrastructure, and construction of new roads and infrastructure inside and outside designated development areas and within the Habitat Reserve; **(3)** ongoing and limited expanded Ranch operations consistent with uses permitted set forth in *Chapter 11*, and maintenance related to Covered Activities; **(4)** designated current permitted and future Ortega Rock mining operations; and **(5)** HRMP management and monitoring activities identified in *Chapter 7* and *Appendix S*. Covered Activities proposed by RMV include those development activities described as part of the approved November, 2004 County of Orange GPA/ZC, including the adopted Planned Community text for the Ranch Plan (*Table 10-2 – RMV Covered Activities and Open Space, Figure 166-M and Appendix S*). *Chapter 11* discusses RMV Covered Activities and other activities treated as Prohibited Uses within the RMV portion of the Habitat Reserve. *Chapter 13* sets forth the conservation and regulatory coverage analyses relating to ongoing and future RMV activities. RMV Covered Activities also include activities undertaken as part of the plans/programs described in *Appendices G* through *K*, and *Appendices M, N* and *O*.

**TABLE 10-2  
RMV COVERED ACTIVITIES AND OPEN SPACE**

	Total RMV Acres <sup>1</sup>	Conserved Vegetation Communities in Habitat Reserve on RMV	% Habitat Reserve on RMV	Total Permanent Impacts in RMV Boundary	Total Permanent Impacts in Planning Areas <sup>1</sup>	Total Permanent Infrastructure Impacts		PA 1 <sup>2</sup>	PA 2	PA 3 <sup>3</sup>	PA 4 <sup>4</sup>	PA 5	PA 6 <sup>5</sup>	PA 7 <sup>5</sup>	PA 8 <sup>6</sup>	Ortega Rock Impacts
						Habitat Reserve	SOS									
Conserved Vegetation Communities																
Coastal Sage Scrub	7,636	5,476	72%	2,163	2,063	95	5	9	264	649	399	299	15	32	395	63
Chaparral	3,854	2,740	71%	1,118	1,099	14	6	1	21	397	443	113	2	6	116	0
Grassland	4,967	3,054	61%	1,918	1,828	76	15	222	39	196	61	325	225	140	620	0
Riparian	1,405	1,255	89%	156	124	26	6	6	9	47	15	22	2	1	23	1
Freshwater Marsh	19	16	84%	2	2	1	0	0	0	1	0	0	0	0	0	0
Alkali Meadow	38	35	92%	3	2	1	0	0	0	0	0	0	0	0	1	0
Open Water	104	40	38%	64	61	3	0	1	1	2	0	57	0	0	0	0
Streamcourses	8	8	100%	0	0	0	0	0	0	0	0	0	0	0	0	0
Woodland & Forest	1,190	629	53	561	544	17	2	3	40	101	103	198	1	1	101	1
Subtotal	19,221	13,253	69%	5,985	5,723	233	34	242	374	1,393	1,021	1,014	245	180	1,256	64
Non-Conserved Vegetation Communities/Land Covers																
Cliff and Rock	7	2	29%	5	5	0	0	0	0	0	0	5	0	0	0	0
Development	486	99	20%	385	375	10	0	102	0	102	55	20	0	3	93	0
Disturbed	474	201	42%	273	254	19	0	2	0	83	0	152	2	14	0	72
Agriculture	2,628	1,024	39%	1,497	1,431	65	0	239	523	607	53	0	0	9	0	0
Subtotal	3,595	1,326	37%	2,160	2,065	94	0	343	523	792	108	177	2	26	93	72
Total	22,816	14,579	64%	8,145	7,788	327	34	585	894	2,185	1,129	1,191	247	206	1,349	136

<sup>1</sup> Assumes overstated scenario impacts for PAs 4, 6-8.

<sup>2</sup> Includes 18 acres for the SOLAG Recycling Facility.

<sup>3</sup> Includes 14 acres for employee housing and 30 acres for setback along San Juan Creek.

<sup>4</sup> Development in PA 4 represents an overstated impact scenario. Ultimately a maximum of 550 acres would be developed in PA 4 for residential/commercial and 175 acres for reservoir.

<sup>5</sup> Potential orchards in PA 6 and/or 7 would be limited to 50 acres. In PA 7 25 acres are designated for the relocated Ranch Headquarters.

<sup>6</sup> Development in PA 8 represents an overstated impact scenario. Ultimately a maximum of 500 acres would be developed in PA 8.

### ***c. Santa Margarita Water District (SMWD)***

Covered Activities identified by the Santa Margarita Water District (SMWD) include those actions involving operation and maintenance of existing facilities in Subareas 1, 3 and 4, and construction and subsequent operation and maintenance of future facilities in Subarea 1 as identified in *Appendix T* and *Figure 160-M* and totaling approximately 653 acres. The SMWD projects are collectively referred to in this NCCP/MSAA/HCP as the “SMWD Proposed Project” which is briefly described below and in *Appendix T* (also see *Chapter 13* conservation and impact analyses). SMWD Covered Activities would permanently impact about 40 acres in Subarea 1 and result in temporary impacts to 94 acres of proposed Conserved Vegetation Communities outside proposed new development in Subareas 1, 3 and 4 (see *Chapter 13, Tables 13-17 and 13-18 and Figure 160-M*).

#### **1. Operation and Maintenance of Existing Facilities (Subareas 1, 3 and 4)**

The SMWD provides water and sewer service to approximately 52,000 households through a network of existing facilities comprised of 1,330 miles of water and sewer mains, 15 connections to other water districts, 30 domestic reservoirs (298 million gallons of storage), four non-domestic reservoirs (1.5 billion gallons of capacity), 21 water pump stations, 30 pressure reducing stations, 6 non-domestic water pump stations, two wells with chlorine injection, 21 sewer lift stations and 3 sewage treatment plants (*Figure 160-M*). These existing facilities require ongoing operation and maintenance described as follows:

- Access Roads and Right-of-Way: Periodic grading and clearing of vegetation, periodic improvements and/or upgrades, patrols and inspections. For maintenance and improvements or upgrades of access roads and Right-of-Ways, a temporary impact zone of 30 feet (15 feet either side of centerline) is assumed.
- Facilities also include domestic water, reclaimed/recycled water and sewer lines, valves, vaults, pump stations and appurtenances. Also included are facilities for wastewater treatment, reclamation and recycled water plants, appurtenances and supporting utilities and access roads: maintenance and repair of plant and pipelines, replacement, rehabilitation, retrofitting and upgrading of plant and pipelines, provision of lay down areas, flushing of blow-off valves and pipelines, pumping of storm water from valve vaults, and other activities required by various laws and regulations. A temporary impact zone of 30 feet (15 feet either side of centerline) of existing water and sewer lines and 30 feet around non-linear facilities is assumed.
- Facilities include open and closed reservoirs and multipurpose basins. Related activities include maintenance and repair of reservoirs, appurtenances and communication facilities, weed and vector abatement, sediment removal and treatment of open reservoirs.

## 2. Future Facilities (Subarea 1)

In addition to existing facilities, SMWD has identified the need for several future facilities which may impact Covered Species and associated habitat and Waters of the U.S. in their initial construction and that, subsequent to construction, will require ongoing maintenance and operation as described above. The future facilities are storage reservoirs and the Gobernadora Multi-purpose Basin, as described below.

### (a) Storage Reservoirs

SMWD's long-term planning for the water district has identified the potential need for two seasonal storage facilities, one for domestic and one for recycled non-domestic water. The facilities would be built in compliance with the requirements of the California Division of Safety of Dams design standards. The purpose of these facilities is to store water supply during the winter months when more supply is available and demands are low, then use the water during summer months when the demands are in excess of supply. While only two seasonal storage facilities (one domestic and one non-domestic) would be constructed, SMWD has identified multiple potential sites. The *Future Seasonal and Emergency Water Storage Needs*, prepared by Henry Miedema and Associates in July 2003, recommended further evaluation for four potential sites for each of the domestic and the non-domestic seasonal storage facilities.<sup>1</sup> SMWD has subsequently refined these four sites to two each for the domestic and non-domestic storage: the upper Chiquita Site and San Juan Creek East 3 Site for domestic, and San Juan Creek East 3 Site and Trampas Canyon Pit Site for non-domestic.

#### ***Domestic Seasonal Storage Facility Alternatives***

- **Upper Chiquita Site:** Located in a side canyon on the west side of Chiquita Canyon, north of Oso Parkway, this site would include a conventional earthfill dam and reservoir. The 34.1-acre reservoir would have a high water level (HWL) of 820 feet and an estimated capacity of 860 acre-feet. This site is outside of the RMV boundary, within the Upper Chiquita Conservation Area portion of the Habitat Reserve.

#### ***Recycled Non-Domestic Seasonal Storage Facility Alternatives***

- **San Juan Creek East 3 Site:** Located in a tributary canyon, south of Verdugo Canyon and east of Ortega Highway. The reservoir would be a conventional earthfill dam with a

---

<sup>1</sup> The *Future Seasonal and Emergency Water Storage Needs* study evaluated 20 different potential sites based on location, hydraulics, capacity potential, geographic dispersion, geotechnical constraints, land uses, and environmental sensitivity.

---



HWL of 600 feet and an estimated storage volume of 6,630 acre-feet. This site is in PA 4 in an area designated in the County General Plan for residential uses.

- **Trampas Canyon Pit Site:** Located in a mined pit on the Oglebay-Norton sand plant within Trampas Canyon. The reservoir would have a HWL of 475 feet and an estimated storage volume of 2,020 acre-feet. This site is in PA 5, in an area designated in the County's General Plan for residential uses.

(b) Gobernadora Multi-Purpose Basin

The Gobernadora Multi-purpose Basin (Basin) is a 35-acre Basin designed to respond to erosion and sedimentation currently occurring along Gobernadora Creek, periodic high storm flows that damage a downstream restored habitat area (GERA), excessive surface and groundwater originating upstream within the already-developed Coto de Caza Planned Community and high bacteria counts, all of which conditions contribute to degraded water quality within Gobernadora Creek. The Basin will consist of a storm detention basin that will be established as wetland and riparian habitat, an infiltration gallery to capture and divert flows to the wetlands, a pump station and a pipeline. The Basin will be utilized to capture and naturally treat urban runoff and storm flows in order to: (1) reduce downstream erosion and sedimentation; (2) address excessive surface and groundwater; and (3) improve the water quality in the Gobernadora Creek downstream as it approaches and passes through the GERA.

### 10.1.8 Conservation Strategy Summary

Each of the four programmatic components of the NCCP/MSAA/HCP Conservation Strategy discussed in this Chapter would be implemented consistent with FESA, the NCCP Act, CESA as appropriate, and California Fish and Game Code Sections 1600 *et seq.* As explained in *Chapters 8, 9 and 14*, the proposed Habitat Reserve has been designed to assure that the adopted Conservation Strategy would:

- provide the basis for authorization of impacts to Covered Species and under FESA and the NCCP Act incidental to otherwise legally authorized activities;
- to the maximum extent practicable, avoid, minimize and mitigate the impacts on species and impacts to CDFG Jurisdictional Areas in accordance with Fish and Game Code Section 1600 *et seq.*;
- assure that impacts to federally-listed Covered Species and Conserved Vegetation Communities receiving regulatory coverage would not appreciably reduce the likelihood

of survival and recovery of these species and supporting vegetation communities in the wild;

- include the Conserved Vegetation Communities within the subregion that would be considered “essential to the conservation of species” for proposed Covered Species under FESA and would contribute significantly to the recovery of federally-listed species on a range-wide basis;
- identify and address any “special management considerations” applicable to listed species and their associated vegetation communities;
- provide for the conservation and management of the state-listed species proposed to receive regulatory coverage pursuant to the NCCP Act;
- provide for the conservation and management of each of the unlisted species proposed to receive regulatory coverage pursuant to FESA and the NCCP Act;
- provide for the conservation of the ten Conserved Vegetation Communities that support the Covered Species and are the focus of the AMP;
- assure adequate funding for the plan consistent with applicable NCCP Act, Section 1600 *et seq.* and federal ESA requirements;
- address changed and unforeseen circumstances; and
- address other measures that the Secretary of Interior may require as being necessary.

Regulatory coverage for listed Covered Species and unlisted Covered Species that might be listed in the future is addressed in a manner complying with the definition of “harm” under Section 9 of the FESA. FESA Section 9 defines “harm” to include killing or injuring a species, or activities resulting in “. . . significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering.” Thus, for purposes of the NCCP/MSAA/HCP, “harm” covers those impacts that result in a loss of habitat that would significantly impair essential behavioral patterns of the Covered Species.

In accordance with the “grandfather” provisions of Section 2830(b)(1) of the NCCP Act of 2002, the NCCP component of the NCCP/MSAA/HCP is drafted in a manner to be consistent with the NCCP Act as of December 31, 2001. Therefore, regulatory coverage for listed and unlisted Covered Species for the Southern Subregion will be formally governed under the terms of Chapter 10 of the Fish and Game Code (commencing with Section 2800) as set forth in the NCCP Act of 1991. Regulatory coverage also will be provided in a manner “. . . pursuant to Rule 4(d) of FESA for the California Gnatcatcher” (58 Federal Register, 12/10/93). As required by that Special 4(d) Rule, the subregional NCCP/MSAA/HCP has been formulated to be

consistent with Section 10 of FESA and designed to be implemented under the NCCP Act in a manner that would mitigate overall impacts consistent with the NCCP Process Guidelines and Conservation Guidelines published in 1993 (*Appendix D*).

Although not required, the proposed Conservation Strategy addresses the substantive approval requirements of the NCCP Act of 2002, as well as the requirements of the NCCP Act of 1991, through its:

- Provision for the extensive public participation process that was undertaken and described in *Chapter 6*;
- Compliance and effectiveness monitoring measures and adaptive management measures set forth in HRMP described in *Chapter 7, Appendix V* and the IA;
- Creation of the Habitat Reserve; and
- Funding commitments identified in *Chapter 12*.

The binding and enforceable IA (see companion *Part III*) sets forth the specific responsibilities and obligations of each of the signatory agencies/landowners involved in the Southern Subregion NCCP/MSAA/HCP.

## **SECTION 10.2 IMPLEMENTATION OF THE NCCP/MSAA/HCP AT THE SUBAREA LEVEL**

### **10.2.1 Description of Subareas**

Although the proposed Conservation Strategy covers the entire 132,000-acre Southern Subregion, for reasons explained below, it would be implemented at the Subarea level (*Figure 9-R*, Subareas 1 through 4). *Table 10-3* provides a summary of vegetation communities within the Habitat Reserve and SOS on a subarea basis. These Subareas include:

- **Subarea 1:** This Subarea encompasses approximately 44,630 acres and consists of the San Juan Creek Watershed, the Prima Deshecha Landfill portion of the San Clemente Hydrologic Unit and that portion of the San Mateo Creek Watershed located within the Southern Subregion. Components of Subarea 1 include:
  - the 22,815-acre RMV ownership;
  - pre-existing conservation easements and conservancy lands totaling about 4,284 acres;
  - 11,950 acres contained in three existing County Regional and Wilderness Parks;

- approximately 48 acres of RMV lands located within the Arroyo Trabuco (*i.e.*, within a CDFG conservation easement area);
- the 3,890-acre NAS Starr Ranch Sanctuary; and
- the 1,530-acre Prima Deshecha Landfill facility, which is designated by the County General Plan Recreation Element as a Regional Park upon closure of the landfill.

The large blocks of existing natural lands remaining in Subarea 1, and particularly the size and natural diversity of the RMV ownership, provide ample opportunity for conservation planning for a Habitat Reserve that could protect and enhance biodiversity within the Southern Subregion.

- **Subarea 2 (Foothill-Trabuco Specific Plan Area [FTSPA area] outside O’Neill Regional Park):** This Subarea consists of multiple ownerships located within the 3,880-acres of the FTSPA located within the Southern Subregion. A significant portion of the FTSPA is located outside this Subregion and within the Central and Coastal NCCP/HCP Subregion. Within the study area, Subarea 2 contains considerable existing natural open space in addition to the northern portion of the O’Neill Regional Park which is located within the FTSPA boundaries. About 1,500 acres of natural open space is designated on the General Plan and these General Plan designated open space areas support a variety of listed and unlisted species and provide wildlife corridors linking the FTSPA to the CNF and to the proposed Habitat Reserve.
- **Subarea 3 (Coto de Caza):** This 4,025-acre Subarea, consisting of 2,830 developed acres, including 415 acres of golf course, and 780 acres of SOS, is fully built out except for a few remaining undeveloped private lots located within the Coto de Caza Planned Community, primarily located along the northern edge of the Planned Community.
- **Subarea 4:** This Subarea consists of 33,550 acres, including the four incorporated cities of Rancho Santa Margarita, Mission Viejo, San Juan Capistrano and San Clemente, and some interstitial unincorporated lands adjacent to the cities. Each local jurisdiction constitutes a separate part of Subarea 4.
  - Subarea 4A (5,045 acres) in the City of Rancho Santa Margarita
  - Subarea 4B (11,005 acres) in the City of Mission Viejo
  - Subarea 4C (5,980 acres) in the City of San Juan Capistrano, and
  - Subarea 4D in the City of San Clemente (11,100 acres) and Talega (420 acres).

Within Subarea 4, important natural areas have been previously protected through Section 4(d) and Section 7 consultations. Currently, only about 106 acres of

uncommitted developable land remains in scattered parcels within the entirety of Subarea 4. Of the 106 acres of natural lands, only about 11 acres would be capable of supporting state or federal listed species.

As reviewed previously, the proposed subregional Conservation Strategy is based on the design and implementation of an overall subregional Habitat Reserve and associated HRMP for the Habitat Reserve under an approach that would not require public/non-profit acquisition funding in order to assemble the Habitat Reserve. Creation of the Habitat Reserve and implementation of management measures would be carried out in accordance with enforceable provisions of the NCCP/MSAA/HCP IA. Planning and future regulatory actions would be coordinated to the extent practicable to contribute to and complement proposed Habitat Reserve lands in a manner that would protect designated *important* and *major populations* of species within the subregion, particularly those *important* and *major populations* located in designated *key locations* by: (1) helping to maintain and enhance biological diversity within the Subregion and (2) providing for wildlife corridors and habitat linkages adequate to connect habitat blocks within the subregion with each other and with adjacent subregional reserves and natural open space.

Subarea boundaries were designated under the NCCP/MSAA/HCP based on several factors, including: land ownership pattern; the presence of significant habitats and extent of prior urbanization; the extent to which planned activities by the landowners and jurisdictions would impact Covered Species, Conserved Vegetation Communities and CDFG Jurisdictional Areas and require authorizations for regulatory coverage of state or federal listed species; the ability of landowners within the Subareas to contribute to subregional and regional biological connectivity; and the willingness of Participating Landowners to assume species/habitat management responsibilities during implementation of the proposed NCCP/MSAA/HCP and its Conservation Strategy. Implementation of the proposed Conservation Strategy would rely on the County of Orange functioning both as a major Participating Landowner and as the Lead Agency for purposes of environmental documentation (CEQA EIR) and monitoring subregional implementation of the NCCP/MSAA/HCP.

The four separate Subareas for NCCP/MSAA/HCP planning purposes would include all of the 86,000 acres located outside the CNF and within the 92,000-acre planning area (*Figure 9-R* – Note: about 5,600 acres of the 92,000 acres-planning area is located in Lake Forest and Dana Point and other areas “not a part” of this planning program – see *Table 3-1*). Each Subarea is briefly described below. The 40,000-acre CNF is not included within the subareas and the USFS is independently preparing its forest management plan to identify appropriate uses and management approaches within its lands.

*Chapter 3* describes the biological resources that are found in each of the Subareas (see *Section 3.4.2*, related *Tables 3-1*, *3-2* and *3-5*). The figures and tables cited in this Section describe the resources contained within each of the Subareas. *Figure 167-M* and *Table 10-3* illustrate the natural open space that would be permanently protected as part of the proposed Habitat Reserve in Subarea 1 and as permanently protected SOS (*i.e.*, protected through regulatory actions) and General and Specific Plan SOS in other Subareas (see *Figure 162-M* for SOS status).

### **10.2.2 Regulatory Coverage Requested within Subareas**

The different conservation planning conditions encountered in the Subareas, in combination with the fact that RMV owns the only large undeveloped tract of privately-owned land presently proposed for new regulatory coverage, led to a decision to approach planning and implementation of the NCCP/MSAA/HCP on a Subarea level. The same considerations resulted in providing for regulatory coverage on a Subarea level.

Covered Activities means those activities described in *Chapters 10* and *11* of the NCCP/MSAA/HCP and *Appendices F, S, T* and *V* that are addressed in the Final EIR/EIS and are proposed to be carried out or conducted by Participating Landowners/Permittees, including activities authorized for regulatory coverage related to impacts on proposed Covered Species and CDFG Jurisdictional Areas. Implementation of the proposed Conservation Strategy, including associated regulatory coverage for Covered Activities, focuses primarily on Subarea 1. As indicated by the brief Subarea descriptions provided above, this focus reflects the fact that Subarea 1 contains large blocks of private and public undeveloped lands capable of accommodating alternative approaches to designing and assembling a subregional Habitat Reserve and is large enough and sufficiently diverse to support an adaptive management program. Accordingly, the Participating Landowners/Permittees (*i.e.*, County, SMWD and RMV) are focusing actions requiring regulatory coverage in Subarea 1 with the following exceptions: (1) regulatory coverage also would be granted to SMWD for operations and maintenance of existing facilities and new facilities designated as Covered Activities in Subareas 1, 3 and 4 for ongoing maintenance and operation of existing facilities; (2) regulatory coverage would be provided to the County for the extension of Avenida La Pata in Subareas 1 and 4; and (3) regulatory coverage would be available to the County for the remaining residential lots in Coto de Caza through the “optional” in lieu impact fees mitigating impacts to Conserved Vegetation Communities on the remaining undeveloped residential lots.

Specific Conservation Strategy implementation provisions for Subareas 2, 3 and 4 are discussed below.

**TABLE 10-3  
HABITAT RESERVE AND SUPPLEMENTAL OPEN SPACE BY SUBAREA**

	Subarea 1 <sup>1</sup>			Subarea 2		Subarea 3		Subarea 4	
<b>Vegetation Community</b>	<b>Total</b>	<b>Conserved Acres in Habitat Reserve<sup>2</sup></b>	<b>Conserved Acres in SOS</b>	<b>Total</b>	<b>Conserved Acres in SOS</b>	<b>Total</b>	<b>Conserved Acres in SOS</b>	<b>Total</b>	<b>Conserved Acres in SOS</b>
Coastal Sage Scrub	16,710	12,413	2,132	1,300	477	753	455	1,854	1,244
Chaparral	6,611	5,208	300	1,156	568	54	27	627	461
Grassland	9,430	5,933	1,051	367	100	292	54	4,995	2,680
Woodland	1,391	938	352	168	108	49	23	31	22
Forest	940	497	0	8	3	0	0	32	26
Riparian <sup>2</sup>	3,876	3,159	567	419	195	233	87	521	296
Open Water	113	52	0	0	0	24	3	240	83
Freshwater Marsh	19	17	0	1	1	0	0	13	13
Watercourses	25	25	0	8	2	0	0	35	19
Alkali Meadow	38	36	0	0	0	0	0	0	0
Cliff and Rock	10	5	0	0	0	0	0	0	0
Marine	0	0	0	0	0	0	0	98	0
<b>Subtotal</b>	<b>39,163</b>	<b>28,283</b>	<b>4,402</b>	<b>3,427</b>	<b>1,454</b>	<b>1,405</b>	<b>649</b>	<b>8,450</b>	<b>4,844</b>
<b>Non-Natural Land Covers</b>									
Agriculture	3,485	1,941	2	176	38	171	46	146	41
Disturbed	1,037	467	19	39	12	70	20	562	201
Developed	945	495	42	235	30	2,380	65	24,391	1,303
<b>Subtotal</b>	<b>5,467</b>	<b>2,903</b>	<b>63</b>	<b>449</b>	<b>80</b>	<b>2,621</b>	<b>131</b>	<b>25,099</b>	<b>1,545</b>
<b>Total</b>	<b>44,630</b>	<b>29,186</b>	<b>4,465</b>	<b>3,876</b>	<b>1,534</b>	<b>4,026</b>	<b>780</b>	<b>33,549</b>	<b>6,389</b>

<sup>1</sup> Source: NCCP Vegetation Database, as revised 2005. Acreage totals do not reflect Prima Deshecha Landfill GDP vegetation database used for the conservation analysis presented in Chapter 13.

<sup>2</sup> Conservation totals are gross acres and do not include infrastructure impacts in the Habitat Reserve and SOS. Totals also are based on "overstated" impacts for Planning Areas 4, 6, 7 and 8. See Chapter 13 for detailed analysis.

***Subarea 2 – Foothill Trabuco Specific Plan Area (FTSPA)***

In Subarea 2 (the FTSPA), the ability to prepare a single conservation plan for the entire Subarea is complicated by several factors. These factors include:

- the lengthy and contentious planning history related to the approval of the current Foothill-Trabuco Specific Plan;
- a fragmented ownership pattern;
- the lack of existing “protocol” level surveys for many of the remaining undeveloped ownerships within the FTSPA, thus making it difficult to know the distribution and populations of listed and unlisted species addressed by the Southern Subregion NCCP/MSAA/HCP; and
- the lack of guaranteed preservation of lands currently designated as open space by the FTSPA.

In response to the above considerations and other factors, no regulatory coverage is requested or provided for Subarea 2 as part of this NCCP/MSAA/HCP. Implementation of the proposed Conservation Strategy in Subarea 2 focuses on assuring connectivity between the Southern Subregion and the Central/Coastal NCCP Subregion and between the Southern Subregion and the CNF, as well as the protection of listed Covered Species. There are no Covered Activities within Subarea 2. Accordingly, the County of Orange, CDFG and USFWS will further the implementation of the Conservation Strategy through the process of carrying out their existing statutory obligations with respect to future projects proposed within Subarea 2 as follows and as set forth in the Draft IA (see *Part III*):

(a) County of Orange

In accordance with Appendix G of the CEQA Guidelines, a lead agency must determine whether a proposed project would “conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional or state habitat conservation plan” (Guideline IV. f). Applicable provisions of the NCCP/MSAA/HCP include the Draft Southern Planning Guidelines and Draft Watershed Planning Principles. In conjunction with this CEQA required NCCP/MSAA/HCP consistency review, the County shall also address the following CEQA Appendix G Guidelines requiring a determination as to whether a proposed project would:

- Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional



plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service.

- Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service (including protections provided pursuant to Section 1600 *et seq.*).
- Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means.
- Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.
- Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.

In order to conduct the environmental reviews required by the above CEQA Guidelines, the County shall require surveys for any Covered Species and/or planning species that is not a Covered Species and mapping of Conserved Vegetation Communities in accordance with survey protocols established by CDFG and USFWS existing at the time of the environmental review.

In its role as a landowner, County commits to the following:

- Termination of the Oso Nursery lease;
- At such time as an amendment to the Central/Coastal NCCP/HCP Implementation Agreement is executed to address the Bowerman Landfill expansion with terms acceptable to the County, County will carry out the Oso Reservoir Nursery restoration project to provide for enhanced biological connectivity between the FTSPA, the Southern Subregion Habitat Reserve and the Central Subarea Habitat Reserve component of the Central and Coastal Subregion NCCP/HCP;
- Prior to finalizing draft environmental documentation for projects proposed within the Subarea, the County shall provide an opportunity for Wildlife Agencies and the USACE to meet and confer on such projects; and
- The County agrees to implement the provisions of the current FTSPA unless subsequently amended.

(b) CDFG

CDFG will exercise its authority under Fish and Game Code Section 1600 *et seq.* and as a CEQA responsible agency in accordance with the above-cited CEQA Guidelines.

(c) USFWS

USFWS will exercise its authority under Sections 7, 9 and 10 as applicable of FESA with respect to federally-listed species in a manner consistent with County and CDFG review as set forth above.

(d) Coordination pursuant to Corps Letter of Permission Procedures

Additionally, the Special Public Notice for “Letter of Permission Procedures for Areas Outside of the RMV Planning Area in the San Juan Creek/Western San Mateo Creek Watershed Special Area Management Plan” (Corps, 11/21/05) indicates that all lands within Subarea 2 are determined to be “Areas Ineligible for Abbreviated Permitting.” According to this Public Notice, “Pre-application coordination is required for projects with permanent losses of WoUS [Waters of the United States] greater than 0.1 acre or for projects with temporary impacts greater than 0.25 acre of WoUS with native wetland and/or riparian vegetation.” As stated in the Public Notice: “Pre-application coordination must involve the Corps, CDFG, the SDRWQCB, and the USFWS.” Projects under review are required to comply with the Corps/EPA 404(b) (1) Guidelines, as applicable, and would be required to comply with and carry out the following requirements:

- the General Conditions as set forth in the final LOP permitting procedures;
- the Activity-Specific Conditions as set forth in the final LOP permitting procedures; and
- the Mitigation Policy Framework, including Compensatory Mitigation for Temporary Impacts and Compensatory Mitigation for Permanent Impacts, as set forth in the final LOP Permitting Procedures.

(e) Participating Landowners/Permittees

At such time as that portion of NCCP/MSAA/HCP linkage A (Arroyo Trabuco) that is not within the Habitat Reserve established pursuant to this Agreement is protected by a conservation easement, or equivalent measures, the Participating Landowners agree to include such area within the Habitat Reserve for purposes of the HRMP, provided that the protective measures allow for inclusion of the area within the Habitat Reserve for management purposes. The

Wildlife Agencies agree, to the maximum extent allowed by law, that any management funds generated as a result of regulatory reviews within Subarea 2 will be contributed to HRMP management of linkage A or related Habitat Reserve Covered Species, Conserved Vegetation Communities and CDFG Jurisdictional Areas adjacent to Subarea 2 that contribute to the function of linkage A.

### ***Subarea 3 – Coto de Caza Planned Community***

As an alternative to future 4(d) permits, HCP or Section 7 reviews, landowners of the remaining undeveloped residential lots in Coto de Caza could participate in a voluntary program as an optional means of complying with applicable FESA and NCCP Act requirements. The required elements of this regulatory compliance option would include the following:

- Avoidance of Conserved Vegetation Communities to the maximum extent practicable;
- Mitigation of unavoidable impacts to Conserved Vegetation Communities occupied by Covered Species at a 2:1 ratio, with on-site avoidance habitat credited toward the mitigation ratio;
- Mitigation of unavoidable impacts to Conserved Vegetation Communities not occupied by Covered Species at a 1:1 ratio, with on-site avoidance habitat credited toward the mitigation ratio;
- To the extent that the project cannot accommodate the habitat mitigation requirement on-site, a mitigation fee of \$64,000 per acre of Conserved Vegetation Community (the fee subject to a CPI adjustment by the County), to reflect the costs of restoring/creating the subject Conserved Vegetation Communities, shall be paid to the County for adaptive management measures on County parklands;
- Funds generated for adaptive management measures within County parklands shall be placed in a non-wasting endowment held by the County pursuant to the IA to provide for long-term adaptive management implementation with the parklands;
- Any impacted cactus habitat shall, to the maximum extent practicable, be translocated to the fuel modification zone of the project;
- In addition to feasible translocation of impacted cactus plants, cactus shall be planted extensively within the fuel modification zone; and
- CC&Rs will be recorded requiring each landowner to eradicate invasive plant species on its property, including upon notice from any governmental agency.

If this optional approach is selected by a Subarea 3 landowner, the County will process a Certificate of Inclusion pursuant to the IA to provide for the funding, restoration, management and other measures set forth above.

#### ***Subarea 4 – Incorporated Local Jurisdictions***

In Subarea 4, the proposed NCCP/MSAA/HCP does not provide for regulatory coverage for Covered Activities except for mitigation and onsite minimization measures related to SMWD maintenance/operation of existing facilities and the County's Avenida La Pata road improvements.

Landowners with property subject to state and/or federal jurisdiction, those owning portions of the scattered 11 acres of Conserved Vegetation Communities that remain within the roughly 106 acres of undeveloped and uncommitted land, would be required to obtain one or more of the following regulatory approvals: FESA 4(d) or Section 10 permits, a Section 7 consultation, 1600 SAA or a Section 2081 CESA permit.

### **SECTION 10.3 PROPOSED HABITAT RESERVE**

Alternative B-12 is one of four Habitat Reserve Alternatives that were prepared after completion of the Draft Southern Planning Guidelines and Draft Watershed Planning Principles – the others being Alternatives B-9, B-10M and B-11. Alternative B-12 is, however, the only Habitat Reserve Alternative that was designed to respond to the concerns expressed by all of the following agencies and interest groups based on their review of the B-9, B-10M and B-11 Alternatives: the Wildlife Agencies; USACE; and representatives of key environmental organizations.

The B-12 Alternative explicitly addresses the primary Habitat Reserve design comments and concerns expressed by the Wildlife Agencies, USACE, and environmental community. In terms of the environmental groups identified earlier in *Chapter 6* and in this Chapter, the B-12 Alternative was the Habitat Reserve design that provided the foundation for the Settlement Agreement reached between RMV, the County and the Sierra Club, NRDC, Sea and Sage Audubon Society Chapter, Endangered Habitat League and Laguna Greenbelt, Inc. As a result of the Habitat Reserve design characteristics incorporated into Alternative B-12, it is identified as the Alternative “proposed” by the County and RMV and as the “preferred” Alternative by the Wildlife Agencies and USACE for purposes of their respective CEQA and NEPA environmental documentation.

Alternative B-12 includes a total of 32,818 acres within the permanent Habitat Reserve. Development within the RMV development planning areas (PAs) is limited to 6,279 acres (27 percent of the property) while 16,942 gross acres of the RMV property (73 percent) are set aside as open space. Consistent with the priorities expressed by the Wildlife Agencies/USACE, and the environmental organizations, Alternative B-12 focuses on protecting the biotic and abiotic resources within both the San Juan Creek and San Mateo Creek watersheds, with particular attention to those resources located within (see *Figure 167-M*):

- the middle Chiquita Canyon area;
- the mainstem Verdugo Canyon and canyons that drain directly into the mainstem;
- an enlarged (widened) wildlife movement corridor along San Juan Creek between PA 3 and PA 4;
- an enlarged habitat linkage area in PA 6 and PA 7 that protects connectivity between the San Juan Creek Watershed and the San Mateo Creek Watershed;
- enhanced protection within PA 4 through limitation of new development to 550 acres of residential/commercial use and 175 acres for reservoir purposes; and
- enhanced protection within the overall San Mateo Creek Watershed by limiting development in PA 7 to a 25-acre area already disturbed by Ford-Philco lease operations and 50 acres of new citrus production within the combined PA 6 and/or PA 7 area, and concentrating development in the Talega sub-basin on 500 acres.

Within both the San Juan Creek and San Mateo Creek watersheds, the B-12 Alternative concentrates development in areas with lower resource values while continuing to protect high resource value areas, such as the middle Chiquita and Cristianitos sub-basins. However, due to the longer timeframe required for development planning in PAs 4, 6, 7 and 8, it is not possible at this time to identify a precise development footprint for proposed urban, orchard and reservoir uses. Therefore, for the B-12 Alternative, an “over-stated” impact analysis is presented in *Chapter 13* for development proposed in PAs 4 and 8 and for proposed orchards in PAs 6 and/or 7. For purposes of an “over-stated” impact analysis under CEQA and NEPA, the impact analysis boundary for PA 4 is assumed to be approximately 1,127 acres and the impact analysis boundary for PA 8 is assumed to be 1,348 acres. The impact analyses boundaries for PAs 6 and/or 7 for the proposed orchards total 431 acres (see *Figure 133-M*). Ultimately, under the terms of both the NCCP/MSAA/HCP and Settlement Agreement, RMV is limited to developing much less acreage than the “overstated” impact analysis addresses. The maximum developed acreage under the NCCP/MSAA/HCP for PAs 4, 6, 7 and 8 would be:

- 725 acres in PA 4 (550 acres development and 175 acres allotted for a reservoir);
- 500 acres development in PA 8;
- 50 acres of orchards (total) in PAs 6 and/or 7; and
- 25 acres for the future re-located RMV Headquarters.

Additional acreage, totaling 361 acres (327 acres in the Habitat Reserve and 34 acres in SOS outside Subarea 1) would be permitted under the proposed NCCP/MSAA/HCP within open space outside the PAs for infrastructure facilities.

### **10.3.1 Ownership of the Habitat Reserve**

The proposed Habitat Reserve would consist of 32,818 acres (*Figure 167-M*). *Figure 168-M* shows the ownerships in the Habitat Reserve comprised of:

- 20,868 total acres of RMV property, consisting of
  - 16,536 acres of the 22,815-acre RMV property covered by the 2004 County GPA/ZC;;
  - approximately 48 acres of RMV lands located within the Arroyo Trabuco (*i.e.*, within a CDFG conservation easement area); and
  - about 4,284 acres included in pre-existing conservancies and conservation easements (*e.g.*, Ladera Land Conservancy, Upper Chiquita Conservation Area, Arroyo Trabuco Conservation Easement Area and Donna O'Neill Land Conservancy).
- 11,950 acres of non-RMV lands within the three existing County Regional and Wilderness Parks.

Thus, as summarized above, about 64 percent of the proposed 32,818-acre Habitat Reserve would consist of RMV property and 36 percent would be contributed by the County of Orange.

### **10.3.2 Protection of Major Landscape Features**

The proposed Habitat Reserve would protect the following major landscape features as part of the permanent Habitat Reserve (*Figure 169-M*).

- Within the San Juan Creek Watershed:
  - Protection of Chiquita Creek for its entire length and the entirety of Chiquita Ridge west of the Creek;
  - Protection of middle Chiquita sub-basin, including Chiquadora Ridge between the SMWD Water Plant and the proposed residential development adjacent to Tesoro High School;
  - Protection of substantial contiguous habitat located south of San Juan Creek that would provide connectivity between the western portion of the planning area and Chiquita Canyon and San Juan Creek;
  - Protection of the Gobernadora Creek floodplain from San Juan Creek north to the point where it exits the Coto de Caza planned community;
  - Provision of extensive habitat connectivity from upper and middle Chiquita Canyon across Sulphur Canyon/Chiquadora Ridge through the Gobernadora Creek floodplain, across upper Gobernadora through a 2,500-foot wide wildlife movement corridor connecting to the Caspers Wilderness Park portion of the proposed Habitat Reserve;
  - Protection of the mesa area west of Trampas Canyon and south of San Juan Creek (*i.e.* the Radio Tower Road area);
  - All of the San Juan Creek 100-year floodplain within the RMV property, including a minimum 1,312 feet (400 meter) wide open space corridor between PA 3 and PA 4;
  - Protection of the Cristianitos Meadows area (PA 6), with the potential to allow up to 50 acres of new citrus production (combined for PAs 6 and/or 7); and
  - Protection of all of the mainstem creek and associated drainage within Verdugo Canyon and development within the sub-basin limited to 550 acres for future urban use and 175 acres for a SMWD reservoir (the precise footprint to be determined following completion of detailed site planning).
- Within the San Mateo Creek Watershed:
  - Protection of all of the Gabino Canyon sub-basin;
  - Protection of all of the La Paz Canyon sub-basin on RMV property;
  - Protection of the Cristianitos Canyon sub-basin, with development limited to a 25-acre Ranch Headquarters and new citrus orchards, provided that the new citrus orchards located in PA 6 and/or PA 7 cannot exceed a total of 50 acres;

- Protection of the lower Cristianitos Creek floodplain to the RMV property line; and
- Protection of all but 500 acres of the Talega sub-basin (the precise footprint to be determined following completion of arroyo toad radiotelemetry studies and detailed site planning).

### **10.3.3 Protection of Conserved Vegetation Communities**

The B-12 Alternative would result in the creation of a 32,818-acre Habitat Reserve that would include more than 29,000 acres of natural vegetation and represent all of the major upland and aquatic vegetation communities present within the subregion (see *Figure 170-M* and *Table 10-3*). The proposed Habitat Reserve would provide for:

- proportional representation of the existing natural community gradients (elevation, location in proximity to the coast, etc.) for each conserved vegetation community (see *Chapter 13, Section 13.3.2*);
- protection of all of the major non-coastal vegetation communities currently found within the Subregion, including a substantial majority of the following Conserved Vegetation Communities that support listed and unlisted Covered Species and CEQA sensitive species that are not on the Covered Species list:
  - Coastal sage scrub (73 percent);
  - Grasslands (62 Percent);
  - Oak woodlands and forests (61percent);
  - Riparian (80 percent);
  - Marsh (80 percent);
  - Alkali Meadow (92 percent); and
  - Chaparral (78 percent)
- Achieving the state/federal goals of “no net loss” of wetlands when considering proposed restoration and enhancement measures.

The proposed Habitat Reserve would protect the Conserved Vegetation Communities addressed above, as discussed in *Chapter 13* and *Table 13-17*.



### **10.3.4 Protection of Populations of Species Proposed to Receive Regulatory Coverage**

As discussed in *Chapter 13*, the proposed Habitat Reserve would protect all, or the majority of, the *major/important populations* in *key locations* of species proposed to receive regulatory coverage for which they were identified (*Figures 171-M through 180-M*, and *Table 13-2*). The proposed Habitat Reserve also would protect the majority of sites and habitat of species proposed to receive regulatory for which *major* and *important populations* were not identified (see *Chapter 13* analysis). Based on the proposed Habitat Reserve design and implementation of the HRMP and IA funding measures, the Draft NCCP/MSAA/HCP would provide for:

- Conservation of 32 listed and unlisted plant and animal Covered Species sufficient for these species to be proposed for regulatory coverage (see *Chapter 13* and *Appendix E* for a description of the species and the rationale for coverage of each species);
- Substantial protection of the *major* and *important populations* in *key locations* of all seven listed species currently found within Subarea 1, including substantial majorities of the documented sites of state and federally-listed species, including:
  - 400 of 518 (77 percent) coastal California gnatcatcher sites, by protecting more than 85 percent of the sites within the *major population* in a *key location* in the Chiquita sub-basin,
  - 43 of 53 (81 percent) least Bell's vireo sites,
  - All six southwestern willow flycatcher sites,
  - all of the arroyo toad breeding sites,
  - all of the San Diego and Riverside fairy shrimp and vernal pool sites, by locating new development topographically below the pool sites, and
  - 20 of 33 (61 percent) populations and 9,248 of 9,395 (98 percent) individuals of the federal- and state-listed thread-leaved brodiaea.

### **10.3.5 Assembling the Habitat Reserve**

The process of assembling the proposed Habitat Reserve will be implemented consistent with the approved NCCP/MSAA/HCP and accompanying IA. The coordinated process for completion of the three planning programs was discussed in *Chapter 6* and is summarized in *Figure 118-M*. It is understood by participants in the Southern NCCP/MSAA/HCP that, under this coordinated process, implementation of those NCCP/MSAA/HCP elements requiring funding, transfer of lands to the Habitat Reserve, or other legal/financial commitments, would not be initiated until

all necessary programmatic approvals were received. These necessary programmatic approvals include:

- Final resolution of any outstanding litigation or challenges affecting all or any portion of the NCCP/MSAA/HCP, the Ranch Plan Project and/or the SAMP.
- Issuance of Records of Decision for the NCCP/MSAA/HCP and the SAMP.
- Receipt of all necessary permits and authorizations for the Ranch Plan Project (*e.g.*, Federal Clean Water Act Section 404 permits), upon terms and conditions that are acceptable to RMV.

Expiration of all applicable challenge and review periods relative to any permit or authorization issued for the Ranch Plan Project or, in the alternative, resolution of all challenges or claims relative to the project permits and authorizations, all upon terms and conditions that are acceptable to RMV.

With this background discussion as perspective, the following discussions describe how the proposed Habitat Reserve would be assembled.

***a. Incorporation of Pre-Existing Protected Open Space into the Proposed Habitat Reserve***

*Section 6.2* and *Appendix L* discuss in detail the extent of the open space preservation and habitat protection measures that were undertaken by various landowners, local governments and other interests prior to the completion of this Draft NCCP/MSAA/HCP (also see *Figures 6-M, 113-M* and *114-M*). These prior open space preservation actions create a significant foundation for assembling a subregional Habitat Reserve that could be effectively managed for the conservation of Covered Species and Conserved Vegetation Communities and protection and management of CDFG Jurisdictional Areas over the long term (see the *Chapter 6* discussion of previous open space preservation efforts as part of the avoidance and minimization measures). Much of the open space identified in *Section 6.2* and *Appendix L* (about 16,234 acres) will be incorporated into the proposed Habitat Reserve. Virtually all of the remaining previously set aside open space (about 7,169 acres) would continue to be protected in Subarea 3 (Coto de Caza) and Subarea 4 (the four cities) and about 4,465 acres of the previously set-aside open space is included in Subarea 1 as SOS (see *Section 10.5* and *Figure 167-M*).

After receiving necessary programmatic approvals cited above, the open space lands previously set aside and committed to the Habitat Reserve (*Figure 181-M*) shall be considered to be fully subject to the long-term management provisions of this NCCP/MSAA/HCP as provided for in

Chapters 7, 11 and 12 (the HRMP, Covered Activities and Compatible Uses, and Funding chapters, respectively) and as provided in the IA.

***b. Incorporation of Lands Subject to Conservation Easements Resulting from the Phased Dedication of RMV Open Space (Figure 182-M)***

Under the proposed Phased-Dedication Program, dedication would occur in phases pursuant to *Section 8* and *Attachment 1* of the IA for the geographic areas identified in *Figure 182-M*. The timing of dedications also would be subject to specified progress within each of the phased development areas. Consistent with *Section 8* and *Attachment 1* of the IA, dedications of Habitat Reserve lands related to each phase of development (Planned Activities) would occur within three years following commencement of grading in a PA or PA subarea. Adaptive management measures within the Habitat Reserve lands related to the development phase would commence concurrent with grading or grubbing as set forth in the IA. As designed, the Phased-Dedication Program would assure that phased new development of RMV lands addressed by the NCCP/MSAA/HCP and EIR/EIS would be matched by the phased dedication of designated natural areas as part of the permanent Habitat Reserve.

Under the conceptual Phased-Dedication Program approach shown in *Figure 182-M*, each of the respective ‘D’ (development) areas would correspond to the same number ‘OS’ (open space) area on the map. Over time, the conceptual Phased-Dedication Program could be refined by RMV and the County in consultation with the USACE, USFWS and CDFG of RMV. In all, a total of 16,536 Habitat Reserve acres in discrete dedication phases are identified by the proposed Phased-Dedication Program.

The exact timing for completion of the Phased-Dedication Program will depend on the pace of subsequent RMV regulatory approvals and related development. Although it may take many years to formally dedicate all of the open space areas designated for inclusion in the Habitat Reserve and thereby complete the phased dedication process, all of these areas would be protected against degradation following execution of the IA for the NCCP/MSAA/HCP and approval of the SAMP. That is, pre-existing land management measures and land uses would be continued and no new development/uses other than Covered Activities allowed within the Habitat Reserve would be permitted on those lands.

After those lands with dedicated RMV conservation easements are formally incorporated into the Habitat Reserve, the Reserve Manager would prepare annual management and monitoring reports that would progressively cover phased-dedication Habitat Reserve areas as each dedication phase was completed (see *Chapter 7*). It is understood, given the funding program set forth in *Chapter 12* of the NCCP/MSAA/HCP, that available funding for monitoring and

management would be limited in the early phases of HRMP implementation and increase in phases as development areas generate increasing funding for the program. It also is understood that monitoring and management would focus on priority management activities identified in the AMP that would contribute most effectively to long-term habitat values within the Habitat Reserve (*e.g.*, species monitoring, invasive species control, restoration/enhancement, etc.).

A primary purpose of the RMV Phased-Dedication Program is to maintain incentives for NCCP/MSAA/HCP participants and others to continue to support approval and implementation of Covered Activities (new development) that are provided for under the NCCP/MSAA/HCP program so that the components of the Habitat Reserve can be assembled in a timely and orderly manner.

#### **10.3.6 Management of Lands and Easements Designated for Inclusion in the Habitat Reserve During the Interim Period Following Approval of the NCCP/MSAA/HCP and Prior to Formal Inclusion in the Habitat Reserve**

During the interim period following approval of the three components of the SOCCPP, but before formal commitment of additional lands to the Habitat Reserve through phased dedications, existing biotic and abiotic resources designated for inclusion in the Habitat Reserve shall be protected pursuant to the Covered Activities provisions set forth in *Chapter 11*. Only those uses/activities specified in *Chapter 11* and the IA shall be permitted within lands committed to be part of, or designated for inclusion in, the Habitat Reserve. During this interim phase, no restoration or other activities requiring a commitment of land or funding would be required.

#### **10.3.7 Covered Activities and Compatible Uses within the Proposed Habitat Reserve**

*Chapter 11* of the NCCP/MSAA/HCP outlines and discusses the uses that would be permitted within the proposed Habitat Reserve. *Chapter 11* also sets forth the specific conditions and mitigation measures that would be required pursuant to the approved NCCP/MSAA/HCP and IA. Generally speaking, Covered Activities and Compatible Uses within the Habitat Reserve would be limited to:

- Covered Activities include
  - Habitat and species management activities, including resource surveys, restoration, invasive species control, and so forth;

- Identified infrastructure uses serving regional social/economic needs and necessary to serve existing and approved development areas (*e.g.*, roads, utility corridor facilities, drainage culverts, wastewater treatment facilities, and so forth);
- Maintenance and operation of otherwise Covered Activities (*e.g.*, existing flood control facilities, other infrastructure facilities, passive recreation facilities, etc.) subject to the terms and conditions set forth in the NCCP/MSAA/HCP and IA;
- Continuation of existing barley production ;
- Continuation of RMV family and company sponsored activities, including the rodeo, horseback trail rides, and similar activities; and
- Continuation of existing RMV ranching activities consistent with the provisions of the Grazing Management Plan (*Appendix G*).
- Compatible Uses include
  - Passive recreation activities within County parklands, such as nature appreciation, hiking, equestrian and bicycling on designated trails (*Figure 183-M*) and at designated times of the day and season;
  - Other facilities related to regional parkland administration, including park headquarters, interpretative facilities, public parking, concessions, stables and staging areas for hiking, equestrian and bicycle trail use, limited lighting, and so forth;

The reader is referred to *Chapter 11* of the NCCP/MSAA/HCP and the relevant sections of the IA for a full discussion of Covered Activities, Compatible Uses and Prohibited Uses in the Habitat Reserve.

## **SECTION 10.4 SUPPLEMENTAL OPEN SPACE**

### **10.4.1 Overview Description of Supplemental Open Space**

Supplemental Open Space (SOS) designated under the NCCP/MSAA/HCP planning area includes open space with distinctly different origins. SOS areas shown in *Figure 184-M* and include:

- SOS permanently set aside as conditions relating to previous local, state and/or federal regulatory approvals;
- SOS permanently designated for portions of the Prima Deshecha Landfill;

- NAS Starr Ranch Sanctuary; and
- SOS within the cities (Subarea 4) consisting of open space designated by local General Plans, where there are no existing guarantees that such areas will be permanently protected (*i.e.*, no assurance that future General Plan or Zoning amendments would not change the existing open space designation).

The SOS cited above is located within the planning area (*i.e.*, that portion of Study Area outside the CNF) and totals about 13,168 acres (*Table 10-3*). If the 40,000 acres in the CNF are included, total SOS increases to about 53,168 acres. When added to the 32,818 acres in the proposed Habitat Reserve, the total subregional open space within the Southern Subregion is about 85,986 acres under the Draft NCCP/MSAA/HCP. The 85,986 acres amounts to about 65 percent of the total 132,000-acre study area.

The cumulative SOS areas shown in *Figure 184-M* and *Table 10-3* are identified by origin in *Figure 113-M* (depiction of pre-NCCP Planning Agreement open space) and *Figure 114-M* (open space protected as part of Section 4(d) permits and Section 7 consultations). As discussed in *Chapter 6, Sections 6.2 through 6.4*, many of the areas previously set aside as open space were the subject of 4(d) Interim Take permits or Section 7 consultations (*e.g.*, lands in the Coto de Caza, Talega, Forster Ranch planned communities, Saddleback Meadows, Whispering Hills, etc.). These areas are subject to the management requirements set forth in each of the individual regulatory approvals (*Figure 114-M*). Other previously set-aside areas are not subject to any management requirements. Among the areas included in the SOS category, the Starr Ranch Sanctuary is the only area that will be managed to protect and enhance habitat values (although not as part of the HRMP) that is not subject to prior regulatory decisions. Other lands identified in *Figure 113-M* historically have been managed and, in the future, these other areas would be protected but probably would not be adaptively managed under the HRMP discussed in *Chapter 7*. The long-term function of the proposed Habitat Reserve does not depend on the SOS; however, the SOS, totaling about 13,168 acres (including the four subareas and an additional 103 acres of open space in the cities of Lake Forest and Dana Point within the planning area), would continue to support and supplement the resources being managed within the future subregional Habitat Reserve (*e.g.*, as connectivity or refugia habitat).

As designated and provided for under the NCCP/MSAA/HCP, the SOS would serve to contribute directly to the long-term protection of Covered Species and their habitats by:

- contributing to long-term subregional biological diversity;
- providing potential refugia habitat in the event of fire or other natural disturbances;

- providing supplemental connectivity between geographic elements of the Habitat Reserve; and
- contributing to the long-term protection of important abiotic resources and processes.

Supplemental Open Space, if subject to ongoing management obligations defined in regulatory approvals, would continue to be managed in accordance with current management practices. The management obligations for these areas are limited to current management approaches and the conditions imposed as part of prior Section 7 and 4(d) approvals. Where no existing habitat management is required (*e.g.*, General Plan designated open space not subject to Section 7 and Section 4(d) requirements), no new management obligations are incurred under this NCCP/MSAA/HCP. As noted previously, Starr Ranch would continue to be managed in accordance with NAS goals and objectives.

Regulatory coverage within the SOS would be authorized only as specifically called out by the NCCP/MSAA/HCP in this Chapter and in *Chapter 13* and the IA (*i.e.*, within the County's Prima Deshecha Landfill, for infrastructure facility construction, operation and maintenance on RMV lands and for SMWD maintenance activities). If the affected landowners and Local Jurisdictions choose to seek additional regulatory coverage for activities located within other SOS areas in the future, they would be required to undertake separate review by CDFG and USFWS to determine compliance with applicable state and federal requirements under FESA and the NCCP Act.

#### **10.4.2 Supplemental Open Space within Subarea 1**

Although not a part of the proposed Habitat Reserve, the Subarea 1 incorporates additional existing and proposed SOS totaling about 4,465 acres, including:

- SOS within the County's Prima Deshecha Landfill facility;
- NAS Starr Ranch Sanctuary; and
- small portions of the Ladera Conservancy.

Each of the above SOS areas is discussed below.

##### ***a. SOS within the Prima Deshecha Landfill***

As described in *Section 10.1.7*, about 530.7 acres included as part of the County's Prima Deshecha Landfill facility is designated as SOS under the proposed Conservation Strategy (subject to the identified Covered Activities outlined in *Section 10.1.7*).

***b. National Audubon Society Starr Ranch Sanctuary***

The NAS Starr Ranch Sanctuary covers about 3,890 acres located along the northeast boundary of the proposed Habitat Reserve. The NAS has not chosen to participate in the NCCP/MSAA/HCP at this time. The NCCP/MSAA/HCP is a voluntary program and, pursuant to the decision of NAS, Starr Ranch is not included within the proposed Habitat Reserve. Even though Starr Ranch is not part of the NCCP/MSAA/HCP, it would continue to be actively managed by the NAS as habitat supporting listed and unlisted species and would continue to provide both an educational and research facility. Because NAS is not a participant in the NCCP/MSAA/HCP, Starr Ranch is designated as SOS under the proposed Habitat Reserve Alternative (see *Figure 184-M*).

***c. Horno Basin Portion of the Ladera Conservancy***

About 38 acres of the Ladera Conservancy adjacent to the Southern edge of the Ladera Planned Community has been set aside for water quality management purposes (the Horno Basin) and functions as a surface runoff treatment and detention basin.

**10.4.3 Subarea 2 SOS (Foothill Trabuco Specific Plan Area)**

The FTSPA currently contains about 1,534 acres of natural open space outside the O'Neill Regional Park boundaries that are designated SOS under the FTSPA (*Figure 185-M*). These SOS areas support a wide range of natural lands containing coastal sage scrub, chaparral, woodlands and forests and riparian/wetland vegetation communities. In turn, these vegetation communities currently support both listed Covered Species (*e.g.*, California gnatcatchers and Riverside fairy shrimp) and several unlisted Covered Species (*e.g.*, cactus wrens). The open space shown in *Figure 185-M* are lands designated as wildlife corridors by the Specific Plan. Protection of this open space in the FTSPA would serve to maintain important wildlife corridors (*e.g.*, for the coastal California gnatcatcher, *Figure 171-M*) currently connecting areas within the proposed Habitat Reserve with the CNF and with the Central Subarea portion of the Central and Coastal Subregion NCCP/HCP.

Subarea 2 SOS in this Subarea should be considered preliminary and permanent protection cannot be guaranteed for areas that were not set aside as part of prior regulatory approvals. SOS areas that are not set aside as part of prior regulatory approvals are General Plan designations only and cannot be considered permanently protected at this time. Some Subarea 2 SOS areas are subject to management conditions pursuant to prior regulatory approvals (*e.g.*, Saddleback Meadows) and can be considered permanently protected.



#### **10.4.4 Subarea 3 SOS (Coto de Caza Planned Community)**

Consistent with prior regulatory approvals, the Coto de Caza Planned Community would permanently protect about 780 acres of SOS providing significant natural lands (*Figure 184-M*). Some of the previous open space commitments are included in Riley Wilderness Park and Caspers Wilderness Park which are both in Subarea 1 and are already part of the Habitat Reserve. The remaining designated open space is included as SOS under this Draft NCCP/MSAA/HCP because it would contribute to the overall function and value of the proposed Habitat Reserve. These lands currently support both listed and unlisted sensitive species (*e.g., Figures 171-M, 174-M, 175-M, and 177-M*).

#### **10.4.5 Subarea 4 SOS in the Incorporated Cities**

The incorporated jurisdictions included within Subarea 4 contain about 6,389 acres of SOS. Portions of this SOS provide natural habitat that supports a variety of listed and unlisted species (*Figure 184-M*). Other parts of the SOS function as wildlife corridors that link the proposed Habitat Reserve to Camp Pendleton (cities of San Clemente and San Juan Capistrano) and the Central Subarea Reserve component of the Central and Coastal Subregion NCCP/HCP (*i.e., Rancho Santa Margarita*).

Some SOS provided pursuant to prior regulatory approvals, as reviewed in *Chapter 6*, will be permanently protected (see *Figures 6-M, 113-M and 114-M*). Other SOS within the cities is set aside pursuant to local General Plans and zoning. Supplemental Open Space in this category could be subject to future decisions by the cities that would change its designation and result in impacts to the open space. Accordingly, the General Plan SOS areas cannot be considered permanently protected at this time (*Figure 184-M*). Future local government decisions concerning SOS that would involve impacts to Conserved Vegetation Communities, Covered Species and CDFG Jurisdictional Areas do not receive regulatory coverage under this NCCP/MSAA/HCP and could require state/federal regulatory actions (*e.g., Section 7 consultations, Section 10 or NCCP permits or Section 1600 et seq. SAAs*).

#### **10.4.6 Cleveland National Forest (CNF)**

The CNF lands include 40,000 acres located immediately adjacent to and contiguous with much of the northern and eastern boundaries of the proposed Habitat Reserve (*Figure 167-M*). These federally-managed lands clearly would enhance the long-term function and value of the proposed Habitat Reserve by contributing to ongoing regional biological connectivity and to regional biodiversity and species/habitat management opportunities. The 40,000 acres owned and managed by the U.S. Forest Service and included within the boundaries of the 132,000-acre

Southern Subregion study area are a continuation of the CNF located immediately to the west in the Central and Coastal Subregion.

## **SECTION 10.5 URBAN/WILDLAND INTERFACE ZONE**

*Section 4.3 (General Policy 5) in Chapter 4* requires the creation of an urban/wildland interface zone that would separate the Habitat Reserve and adjacent non-reserve urban uses. The urban/wildland interface zone is wholly contained within the planned development areas. Although included within the development footprint of the designated PAs and not a part of either the Habitat Reserve or the SOS, the urban/wildland interface zone is being discussed here to provide a better understanding of how the Habitat Reserve will be protected over the long term from adjacent areas that are proposed for future development. The purpose of the interface zone discussed in *Chapter 4, Section 4.3* is to physically separate future urban land uses and activities and their effects from the sensitive resources and natural processes within the Habitat Reserve that are being managed in accordance with the approved AMP. As explained in *Section 4.3* and in *Chapter 11* the urban/wildland interface zone requires implementation of the following measures adjacent to the Habitat Reserve:

- Creation of fuel management zones combining irrigated and non-irrigated native plantings;
- Prohibitions on the planting of invasive plants identified by the California Exotic Pest Plant Council and the Orange County Fire Code;
- Management of pesticides, herbicides and fertilizers within and adjacent to the interface zone;
- Shielding/directing light sources away from the Habitat Reserve; and
- Provisions for barriers and signage to direct/control access to the Habitat Reserve by the public and domestic animals.

All of the above measures are necessary to protect the values and functions of the Habitat Reserve and enable it to be managed effectively over the long term.

## **SECTION 10.6 CONCLUSIONS**

The elements of the Conservation Strategy discussed in this Chapter combine to provide a comprehensive approach to protecting and managing proposed Covered Species and proposed Conserved Vegetation Communities in a manner that will contribute to the survival and recovery of the species throughout their respective ranges and provide for survival and recovery within the

Southern Subregion consistent with the provisions of FESA, the NCCP Act and CESA. The proposed Conservation Strategy also will provide for no net loss of CDFG Jurisdictional Areas consistent with the provisions of Section 1600 *et seq.* of the Fish and Game Code and state policies. The following two chapters address the Covered Activities within the Habitat Reserve (*Chapter 11*) and funding that has been identified for implementing the proposed Conservation Strategy (*Chapter 12*). *Chapter 13* addresses specific conservation, impact and regulatory coverage issues related to the proposed Conservation Strategy and *Chapter 14* provides an assessment of the consistency of the proposed Conservation Strategy and its components with applicable state and federal statutes and regulations.